

FREQUENTLY ASKED QUESTIONS

SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT & RULES, 2013



**State Resource Center for Women
Department of Women and Child Development
Government of Odisha**

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Preface

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is a landmark legislation to protect women against sexual harassment at all work places, be it in public or private. The Act not only contributes to the realisation of the rights towards gender equality, life and liberty of working women but also ensures security at the workplace for improving women's participation in work, resulting in their economic empowerment and inclusive growth.

The Act which comes into force from 9th December 2013 defines sexual harassment at the work place and creates a mechanism for redressal of complaints. The success in implementing the Act depends on wide publicity of the provisions laid down in the Act i.e. the constitution of the Internal Complaints Committee at all workplaces and the Local Complaints Committee at the district level.

The Women & Child Development Department, Government of Odisha has taken steps to ensure that the Act is implemented successfully. The Frequently Asked Questions on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act & Rules, 2013 is one such step in that direction. The FAQ explains each and every aspect of the Act clearly for the benefit of the implementing authorities.

I sincerely hope that all the stakeholders would proactively implement the Act which would curb and prevent the sexual harassment of women at workplace.

Saswat Mishra, IAS

Commissioner-cum-Secretary

Women & Child Development Department

Government of Odisha

Bhubaneswar
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1. When was the Sexual harassment of women at workplace (prevention, prohibition & redressal) Act 2013 passed?

The Ministry of Law & Justice has passed the Act on 22nd April 2013. The Rules were passed on 9th December 2013.

2. What are the objectives of the said Act?

This Act is to provide

- Protection against sexual harassment of women at workplace
- Prevention
- Redressal of complaints of sexual harassment

3. What is sexual harassment?

The Act in its Section 2n, defines sexual harassment. Sexual harassment includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication), namely

- Physical contact and advances
- A demand or request for sexual favours
- Making sexually coloured remarks
- Showing pornography
- Any other unwelcome physical, verbal, non verbal conduct of sexual nature

Section 3 (2) of the Act further elaborates that if any of the following circumstances occurs or is present in relation to or connected with any act or behavior of sexual harassment among other circumstances, it may amount to sexual harassment-

- Implied or explicit promise of preferential treatment in her employment

- Implied or explicit threat of detrimental treatment in her employment
- Implied or explicit threat about her present or future employment status
- Interference with her work or creating an intimidating or offensive or hostile work environment for her
- Humiliating treatment likely to affect her health or safety

4. Who is an aggrieved woman according to the Act?

According to the Act (Section 2a) aggrieved woman means

- 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
- In relation to a dwelling place or house, a woman of any age who is employed in such a dwelling or house

5. What is the meaning of a respondent?

Respondent means a person against whom the aggrieved woman has made a complaint. (Section 2 m)

6. What is workplace according to the Act?

Workplace includes (Section 2o)

- Any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a cooperative society

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- Any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non governmental organization, unit or service provider carrying on commercial , professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service
- Hospital or nursing homes
- Any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating to it
- Any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey
- A dwelling or a house

7. Who is an employee ?

According to the Act (Section 2f), employee means a person employed at a workplace for any work on regular, temporary, adhoc or daily basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co worker, a contract worker, probationer, trainee, apprentice or called by any other such name.

8. Who is an employer ?

According to Section 2g(i) of the Act, in relation to any department, organization, undertaking, establishment, enterprise, institution, office,

branch or unit of the appropriate Government or a local authority, the head of that department, organization, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority as the case may be, may by an order specify in this behalf.

Further according to Section 2g(ii) of the Act, it is clarified that in any workplace not covered under the above explanation, any person responsible for the management, supervision and control of the workplace is the employer. Management includes the person or board or committee responsible for formulation and administration of policies for such organization.

Thus with regard to the above, the person discharging contractual obligations with respect to his or her employees is the employer.

According to Section 2g(iv) of the Act, in case of a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed or the nature of the employment or activities performed by the domestic worker is the employer.

9. What are the duties of the employer ?

As per Section 19 of the Act, every employer shall:

- Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace

Display at any conspicuous place in the workplace, the penal consequences of sexual harassments and the order constituting the ICC



- Organize workshops and awareness programmes at regular intervals for sensitising the employees with the Act
- Orientation programmes for the members of the ICC
- Provide necessary facilities to the ICC or the LCC for dealing with the complaint and conducting an inquiry
- Assist in securing the attendance of respondent and witness before the ICC or the LCC
- Make available such information to the ICC or the LCC with regard to the complaint
- Provide assistance to the woman if she chooses to file a complaint under IPC or any other law
- Cause to initiate action under the IPC 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
- Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct
- Monitor the timely submission of reports by the ICC

10. What is the meaning of appropriate Government?

Appropriate Government means in relation to workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the Central Government or the Union Territory administration it is the Central government, while those by the State Government, it is the

State Government. In relation to any workplace not covered as per the above, and falls within its territory, the appropriate Government means the State Government. (Section 2b of the Act)

11. What is the definition of unorganized sector ?

The Act in Section 2(p) defines unorganised sector in relation to a workplace as an enterprise owned by individuals or self employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever and where the enterprise employs workers, the number of such workers is less than 10.

12. Who is a domestic worker ?

According to the Act (Section 2e) domestic worker means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part time or full time basis, but does not include any member of the family of the employer.

13. What is Internal Complaint Committee ?

Every employer of a workplace shall constitute by an order in writing, a Committee to be known as the Internal Complaint Committee (ICC) as per Section 4(1) of the Act.

14. Where should the Internal Complaints Committee be located?

The Internal Complaint Committee should be located at all workplace. Where the offices or administrative units of the workplace are located at different places or divisional or sub divisional level, the Internal Committee shall be located at all administrative units or offices. (Section 4(1) of the Act)

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15. Who are the members of the Internal Complaints Committee?

The Internal Complaints Committee shall constitute of the following members (Section 4(2)a, b and c of the Act):

- Presiding Officer : One : a woman employed at a senior level at workplace from amongst employees.
- Members : not less than two : from employees preferably committed to the cause of women or who have experience in social work or have a legal knowledge
- Member : One : from amongst non governmental organizations 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 shall be women.

16. What is the tenure of the members of the Internal Complaints Committee?

The Presiding Officer and every members of the Internal Committee shall hold office for a period not exceeding three years from the date of nomination as member. (Section 4 (3) of the Act).

17. Which members of the Internal Complaint Committee will be paid fees or allowances, why and how much?

The member appointed from amongst the non governmental organizations or associations shall be paid fees or allowances for holding the proceedings of the Internal Committee. (Section 4(4) of the Act)

Section 3 of the Rules elaborates that the member appointed from amongst the non government organizations shall be entitled to an allowance of Rs 200 per day for holding the proceedings of the Internal Committee. Reimbursement of travel cost incurred in travelling by train in 3rd AC or AC bus and auto rickshaw or taxi or the actual amount spent by him/her, which ever is less will also be done.

18. Who is a person familiar with the issues relating to sexual harassment? (Refer Question 15, Ans point 3)

Such a person can be a social worker with at least 5 years experience in the field of social work which leads to creation of societal conditions favourable towards empowerment of women and in particular in addressing workplace sexual harassment or a person who is familiar with labour, service, civil or criminal law as per Section 4 of the Rules.

19. Who is responsible for the payment of fees and allowances to the member as specified above?

The employer shall be responsible for the payment of allowances. (Section 3 of Rules)

20. Who is the District Officer?

The District Magistrate or Additional District Magistrate or the Collector or Deputy Collector may be notified as the District Officer for every District (Section 5). In Odisha vide notification number 23399 dated 7th Dec 2013 of the Women and Child Development department, the Collector of each district is declared as the District Officer for that district.



21. What are the duties and powers of the District Officer ?

As per Section 20, the District Officer shall monitor the timely submission of reports by the LCC and take such measures as may be necessary for engaging non governmental organizations for creating awareness on sexual harassment and the rights of the women.

22. What is Local Complaints Committee ?

In a district, a committee known as Local Complaints Committee (LCC) has to be constituted. (Section 6(1) of Act)

23. Who will constitute the Local Complaints Committee ?

The District Officer shall constitute the Local Complaints Committee in a district. (Section 6(1) of Act)

24. What is the work of the Local Complaints Committee ?

The Local Complaints Committee is to receive complaints of sexual harassment from establishments where the Internal Complaints Committee has not been constituted due to having less than 10 workers or if the complaint is against the employer himself. (Section 6(1) of Act)

25. What is the jurisdiction of the Local Complaints Committee ?

The jurisdiction of the Local Complaints Committee is extended to the areas of the district where it is constituted (Section 6 (3)).

26. Who are the members of the Local Complaints Committee ?

The Local Complaints Committee shall constitute of the following members (Section 7(1) of the Act) :

- Chairperson : One : eminent woman in the field of social work and committed to the cause of women.
- Member : One : nominated amongst the women working in the block, taluka or tehsil or ward or municipality in the district
- Members : Two : to be nominated from amongst non governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment

At least one of the two members shall be women.

At least one of the two should have a background in law or legal knowledge

At least one of the two shall be a woman belonging to the SC or the ST or OBC or minority community

- Member : ex officio : the concerned officer dealing with the social welfare or women and child development in the district

27. What is the tenure of the members of the Local Complaint Committee ?

The Chairperson and every members of the Local Committee shall hold office for a period not exceeding three years from the date of nomination as member. (Section 7(2) of the Act).

28. Who is a nodal officer ?

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.

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29. What is the work of the nodal officer ?

The nodal officer is to receive complaints and forward the same to the concerned Local Complaints Committee within a period of 7 days (Section 6(2)).

30. Which members of the Local Complaints Committee will be paid fees or allowances, why and how much ?

The Chairperson and members of the Local Committee other than member nominated from block/taluka or tehsil or ward or municipality and the concerned officer dealing with social welfare shall be paid fees or allowances for holding the proceedings of the Local Committee. (Section 7(4) of the Act)

Section 5 of the Rules elaborates that the Chairperson of the Local committee shall be entitled to Rs 250 per day and the members other than member nominated from block/taluka or tehsil or ward or municipality and the concerned officer dealing with social welfare shall be entitled to Rs 200 per day for holding the proceedings of the Local Committee. Reimbursement of travel cost incurred in travelling by train in 3rd AC or AC bus and auto rickshaw or taxi or the actual amount spent by him/her, which ever is less will also be done.

31. Who will make payments to the Local Complaints Committee ?

The District Officer will be responsible for payment of allowances.

32. How will a complaint be done ?

Any aggrieved women may make in writing a complaint of sexual harassment at workplace to

the Internal committee/ Local Committee within 3 months from the date of incident or the date of the last incident. In case the women cannot write, the Presiding officer/ any member of Internal Committee/ Chairperson/ any member of Local Committee shall render all reasonable assistance. (Section 9(1) of the Act)

33. What will be the action of the ICC or the LCC on receipt of a complaint ?

Option A : Upon receipt of the complaint, the ICC or LCC must proceed to make an inquiry in accordance with the service rules applicable to the respondent or where no such service rules exist, in accordance with rules framed under the Act (Section 11(1) of the Act).

Option B : The ICC or the LCC may forward the complaint to the Police (as elaborated in question below).

34. What is to be done when both the parties are employees ?

Where both the parties are employees, the parties during the course of the 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.

35. What is the power of the ICC and the LCC ?

For the purpose of making an inquiry the ICC or the LCC shall have the same powers as are vested in a civil court under the Code of Civil Procedure 1908 when trying a suit in respect of the following (Section 11(3) of the Act) :



- Summoning and enforcing the attendance of any person and examining him on oath
- Requiring the discovery and production of documents
- Any other matter which may be prescribed

36. When can the ICC or the LCC forward a complaint to the police ?

The ICC or the LCC can forward a complaint to the Police for registering the case under Section 509 of the IPC and any other relevant provisions of the IPC within 7 days. (Section 11(1) of the Act)

In the event of non compliance of the terms and conditions of a settlement agreed upon and when the aggrieved woman informs the ICC or the LCC about it, the ICC or the LCC may make an inquiry or forward the complaint to the Police.

37. What is the time limit for an aggrieved woman to give a complaint ?

Any aggrieved women may make in writing a complaint of sexual harassment at workplace to the Internal committee/ Local Committee within 3 months from the date of incident or the date of the last incident in case of a series of incident (Section 9(1)).

38. Can the time limit of 3 months be extended ?

The Internal Committee and the Local Committee can extend the time limit not exceeding another 3 months if it is satisfied that the circumstances were such which prevented the woman from filing the complaint within the said period (Section 9(1)).

39. Can someone else file the complaint under the Act ?

If the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death, her legal heirs or such other person as may be prescribed may do so. (Section 9(2) of the Act)

40. What is the scope and process for Conciliation and Settlement ?

Before initiating an inquiry, the ICC or LCC may and at the request of the aggrieved woman, take steps to arrive at a settlement between the parties. However, no monetary settlement can be made as the basis of such conciliation (Sec. 10(1) of the Act)

Where such a settlement has been arrived at, the ICC or the LCC, record the settlement and forward the same to the employer or the District officer to take action as specified in the recommendation (Section 10(2) of the Act).

The ICC or the LCC shall provide copies of the settlement to the aggrieved woman and the respondent (Section 10(3) of the Act).

41. Can further inquiry be made after settlement ?

Where a settlement is arrived at, no further inquiry shall be conducted by the ICC or the LCC. (Section 10(4) of the Act).

However, if the aggrieved woman informs the ICC or the LCC that any term or condition of the settlement has not been complied with by the respondent, the ICC or the LCC shall proceed to make an inquiry into the complaint or forward the complaint to the police. (Section 11(1) of the Act)

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42. What is the time limit of inquiry ?

The inquiry should be completed within a period of 90 days (Section 11(4)).

43. What can the ICC or LCC recommend to the employer during the pendency of an inquiry?

During the pendency of the inquiry of the ICC or LCC, on a written request by the aggrieved woman, the ICC or LCC can recommend the following to the employer (Section 12(1) of the Act):

- Transfer the aggrieved woman or the respondent to any other workplace or
- Grant leave to the aggrieved woman upto a period of 3 months or
- Grant such other relief to the aggrieved woman as may be prescribed
- The leave granted to the aggrieved woman under Section 12(1) is in addition to the leave that she is otherwise entitled.

44. What is to be done by the ICC or LCC on completion of inquiry ?

On completion of inquiry the ICC or LCC will provide a report of the findings to the employer or the District Officer within 10 days from the date of completion of the inquiry and such report will be made available to the concerned parties. (Section 13(1) of the Act).

45. What can the ICC or the LCC recommend to the employer or the District Officer on completion of the inquiry ?

Option 1 : If the ICC or the LCC arrives at the conclusion that the allegation against the respondent has not been proved, it will

recommend to the employer and the District Officer that no action is required to be taken. (Section 13(2) of the Act)

Option 2 : If the ICC or the LCC arrives at the conclusion that the allegation against the respondent has been proved, it will recommend to the employer and the District Officer, the following:

- To take action for sexual harassment as a misconduct in accordance with the provisions of the service rule applicable to the respondent or where no such service rules have been made , in such manner prescribed
- To deduct from the salary or wages of the respondent such sum to be paid to the aggrieved woman or to her legal heirs
- In case the employer is unable to make such deductions from the salary of the respondent due to his being absent or cessation of employment, the ICC or the LCC may direct to the respondent to pay such sums to the aggrieved woman

➤ In case the respondent fails to pay the sum, the ICC or the LCC may forward the order for recovery of the sum as an arrear of land revenue to the concerned District officer. (Section 13 (3) ii of the Act)

Option 3 : If the ICC or LCC arrives at a 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 or the District Officer to take action against the woman or the person who has made the complaint. (Section 14(1) of the Act.)



46. What is the time limit for the employer or the District Officer to act on the recommendations of the ICC or the LCC?

The employer or the District Officer have to act upon the recommendations within 60 days. (Section 12(4))

47. What will the ICC or the LCC do if it arrives at a conclusion that the allegation against the respondent is malicious?

If the ICC or LCC arrives at a 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 or the District Officer to take action against the woman or the person who has made the complaint. (Section 14(1) of the Act.)

48. What will the ICC or the LCC do if it arrives at a conclusion that the witness has given false evidence etc ?

If the ICC or the LCC arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer to take action in accordance with the provisions of the service rules or in such manner as may be prescribed. (Section 14(2) of the Act)

49. Can the ICC or LCC recommend compensation payment of an amount to the aggrieved woman? If yes, who will pay, on what basis and how ?

If the ICC or the LCC arrives at the conclusion that the allegation against the respondent has been proved, it will recommend to the employer and the District Officer to deduct from the salary or wages of the respondent such sum to be paid to the aggrieved woman or to her legal heirs. In case the employer is unable to make such deductions from the salary of the respondent due to his being absent or cessation of employment, the ICC or the LCC may direct to the respondent to pay such sums to the aggrieved woman. In case the respondent fails to pay the sum, the ICC or the LCC may forward the order for recovery of the sum as an arrear of land revenue to the concerned District officer. (Section 13 (3) ii of the Act)

As per Section 15, the basis of determining sums to be paid to the aggrieved woman under Section 13(3) ii under the Act will be –

- Mental trauma, pain, suffering and emotional distress caused to the aggrieved woman
- Loss in career incurred by the victim for physical or psychiatric treatment
- Income and financial status of the respondent
- Feasibility of such payment in lumpsum or installments

50. Can contents of complaint and inquiry proceedings be made public ?

The contents of the complaint, identity and address of the aggrieved woman, respondent and witness, information relating to conciliation and inquiry proceedings, recommendations of the ICC or the LCC and the action taken by the employer or the District

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Officer shall not be published, communicated or made known to the public, press and media.

However information may be disseminated regarding the justice secured to the victim of sexual harassment without disclosing the name, address, identity or any other particulars. (Section 16 of the Act)

51. What is the penalty for publication or making known contents of complaint or inquiry ?

If any person contravenes the provisions of Section 16 of the Act, he shall be liable to penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be applicable. (Section 17 of the Act)

52. What are the provisions for appeal?

Person aggrieved due to the following conditions may prefer an appeal to the Court or Tribunal or in such manner (Section 18(1) of the Act):

- Recommendation under Section 13(2) of the Act : If the ICC or the LCC arrives at the conclusion that the allegation against the respondent has not been proved, it will recommend to the employer and the District Officer that no action is required to be taken.
- Recommendation under Section 13(3) i/ii: If the ICC or the LCC arrives at the conclusion that the allegation against the respondent has been proved, it will recommend to the employer and the District Officer, the following : To take

action for sexual harassment as a misconduct in accordance with the provisions of the service rule applicable to the respondent or where no such service rules have been made , in such manner prescribed and/or to deduct from the salary or wages of the respondent such sum to be paid to the aggrieved woman or to her legal heirs.

- Recommendation under Section 14(1/2): If the ICC or LCC arrives at a 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 or the District Officer to take action against the woman or the person who has made the complaint. (Section 14(1) of the Act.). If the ICC or the LCC arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer to take action in accordance with the provisions of the service rules or in such manner as may be prescribed. (Section 14(2) of the Act)
- Recommendation under Section 17 : If any person contravenes the provisions of Section 16 of the Act, he shall be liable to penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be applicable.



- Non implementation of recommendations

53. What is the time limit of the appeal?

Appeal has to be done within a period of 90 days. (Section 18(2) of the Act)

54. What the mechanism for Annual report?

The ICC or the LCC have to prepare in each calendar year an Annual report and submit the same to the employer and the District Officer (Section 21 (1)). The form and time of submission have to be prescribed.

The District Officer has to forward a brief report on all the Annual reports received to the State Government.

55. What has to be contents of the Annual Report?

The employer has to include in its report the number of cases filed and their disposal in the Annual report (Section 22).

56. What is the monitoring mechanism?

The appropriate Government will monitor the implementation of this Act and maintain data on the number of cases filed and disposed of.

57. What measures are to be taken by the appropriate Government towards the publicity of the Act?

The appropriate Government may (a) develop relevant information, education, communication and training materials and organize awareness programmes; (b) formulate orientation and training programmes for the LCC members. (Section 24)

58. What are the powers of the appropriate Government under this Act?

The appropriate Government in public interest or in the interest of women employees at a workplace call upon any employer or District Officer to furnish in writing such information relating to sexual harassment; authorize any officer to make inspection of the records and workplace in relation to sexual harassment. (Section 25 (1))

59. What is the penalty for non compliance with provisions of the Act ?

Punishment with fine upto Rs 50,000 (fifty thousand) can be done on the employer if there is no Internal Complaints Committee as per subsection (1) of Section 4 or if the employer has not taken action under section 13, 14 and 22 or if the employer has contravened or attempts to contravene or abets contravention of other provisions of this Act or any rules made under the Act. (Section 26(1))

Twice the punishment (which might have been imposed on a first conviction) is liable if any employer after having been previously convicted of an offence punishable under the Act commits and is convicted of 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 (Section 26(2) (i)).

There can be cancellation of license or withdrawal or no renewal or approval or cancellation of registration by the Government

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or the local authority if any employer after having been previously convicted of an offence punishable under the Act commits and is convicted of the same offence (Section 26(2)(ii)).

60. When will the Court take cognizance of the offence ?

The Court will take cognizance of the offence on a complaint made by the aggrieved woman

or any person authorized by the ICC or the LCC (Section 27(1))

No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class will try any offence punishable under this Act (Section 27(2)).

Every offence under this Act is non cognizable.



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II - खण्ड 1
PART II - Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate completion.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 23rd April, 2013/Vaisakha 3, 1935 (Saka)

The following Act of Parliament received the assent of the President on the 22nd April, 2013, and is hereby published for general information:—

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013 (No. 14 OF 2013)

[22nd April, 2013.]

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER-I PRELIMINARY

- | | |
|---|--|
| Short title
extent-and
commencement | <p>1. (1) This Act may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.</p> <p>(2) It extends to the whole of India.</p> <p>(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p> |
| Definitions | <p>2. In this Act, unless the context otherwise requires,—</p> <p>(a) "aggrieved woman" means—</p> <p style="padding-left: 20px;">(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;</p> <p style="padding-left: 20px;">(ii) in relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house;</p> <p>(b) "appropriate Government" means—</p> <p style="padding-left: 20px;">(i) in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly—</p> <p style="padding-left: 40px;">(A) by the Central Government or the Union territory administration, the Central Government;</p> <p style="padding-left: 40px;">(B) by the State Government, the State Government;</p> <p style="padding-left: 20px;">(ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;</p> <p>(c) "Chairperson" means the Chairperson of the Local Complaints Committee nominated under sub-section (L) of section 7;</p> <p>(d) "District Officer" means an officer notified under section 5;</p> <p>(e) "domestic worker" means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part time or full time basis, but does not include any member of the family of the employer;</p> <p>(f) "employee" means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;</p> <p>(g) "employer" means—</p> <p style="padding-left: 20px;">(i) in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;</p> <p style="padding-left: 20px;">(ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.</p> |

Explanation. – For the purposes of this sub-clause "management" includes the person or board or committee responsible for formulation and administration of polices for such organisation;

(iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees;

(iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;

(h) "Internal Committee" means an Internal Complaints Committee constituted under section 4;

(i) "Local Committee" means the Local Complaints Committee constituted under section 6;

(j) "Member" means a Member of the Internal Committee or the Local Committee, as the case may be;

(k) "prescribed" means prescribed by rules made under this Act;

(i) "Presiding Officer" means the Presiding Officer of the Internal Complaints Committee nominated under sub-section (2) of section 4;

(m) "respondent" means a person against whom the aggrieved woman has made a complaint under section 9;

(n) "sexual harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely: –

(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;

(o) "workplace" includes –

(i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;

(ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service;

(iii) hospitals or nursing homes;

(iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;

(v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey;

(vi) a dwelling place or a house;

(p) "unorganised sector" in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.

Prevention
of sexual
harassment

(3) (1) No woman shall be subjected to sexual harassment at any workplace.

(2) The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment: —

- (i) implied or explicit promise of preferential treatment in her employment; or
- (ii) implied or explicit threat of detrimental treatment in her employment; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

CHAPTER II

CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

Constitution
of Internal
complaints
committee

(4)(1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the "Internal Complaints Committee":

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committee shall consist of the following members to be nominated by the employer, namely:—

(a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section (i):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

(b) 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;

(c) 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:

Provided that at least one-half of the total Members so nominated shall be women.

(3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

(5) Where the Presiding Officer or any Member of the Internal Committee, –

- (a) contravenes the provisions of section 16; or
- (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
- (c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
- (d) has so abused his position as to render his continuance in office prejudicial to the public interest,

such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

CHAPTER III

CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

5. The appropriate Government may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act.

Notification of District Officer

6.(1) 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.

Constitution and jurisdiction of Local complaints Committee

(2) 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.

(3) The jurisdiction of the Local Complaints Committee shall extend to the areas of the district where it is constituted.

7.(1) The Local Complaints Committee shall consist of the following members to be nominated by the District Officer, namely: –

Composition, tenure and other terms and conditions of local complaints committee

(a) A chairperson to be nominated from amongst the eminent women in the field of social work and committed to the cause of women;

(b) one Member to be nominated from amongst the women working in block, taluka or tehsil or ward or municipality in the district;

(c) two Members, of whom at least one shall be a woman, to be nominated from amongst such non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed:

Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge:

Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time;

(d) the concerned officer dealing with the social welfare or women and child development in the district, shall be a member ex officio.

(2) The Chairperson and every Member of the Local Committee shall hold office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Officer.

(3) Where the Chairperson or any Member of the Local Complaints Committee –

(a) contravenes the provisions of section 16; or

(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest,

such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

(4) The Chairperson and Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.

Grants
and
Audit

8. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the State Government grants of such sums of money as the Central Government may think fit, for being utilised for the payment of fees or allowances referred to in sub-section (4) of section 7.

(2) The State Government may set up an agency and transfer the grants made under sub-section (1) to that agency.

(3) The agency shall pay to the District Officer, such sums as may be required for the payment of fees or allowances referred to in sub-section (4) of section 7.

(4) The accounts of the agency referred to in sub-section (2) shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the person holding the custody of the accounts of the agency shall furnish, to the State Government, before such date, as may be prescribed, its audited copy of accounts together with auditors' report thereon

CHAPTER IV

COMPLAINT

Complaint of
sexual
harassment

9.(1) 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:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

Conciliation 10. (1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and 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.

(2) Where a settlement has been arrived at under sub-section (L), the Internal Committee or the Local Committee, as the case may be, 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.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (7), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

45 of 1860 11.(1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code, and any other relevant provisions of the said Code where applicable:

Inquiry into
complaint

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, 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.

45 of 1860 (2) Notwithstanding anything contained in section 509 of the Indian Penal Code, the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

5 of 1908 (3) For the purpose of making an inquiry under sub-section (/), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents; and

(c) any other matter which may be prescribed.

(4) The inquiry under sub-section (/) shall be completed within a period of ninety days.

CHAPTER V

INQUIRY INTO COMPLAINT

12. (1) During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Committee or the Local Committee, as the case may be, may recommend to the employer to –

Action during pendency of inquiry

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

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (/), the employer shall implement the recommendations made under sub-section (/) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.

Inquiry report

13.(1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be –

(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, notwithstanding anything in the service rules applicable to the respondent, 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, as it may determine, in accordance with the provisions of section 15:

Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman:

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or, as the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

4. The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

Punishment for false or malicious complaint and false evidence

14. (1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a 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 or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, 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:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

15. For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee or the Local Committee, as the case may be, shall have regard to –

Determination of compensation

- (a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
- (b) the loss in the career opportunity due to the incident of sexual harassment;
- (c) medical expenses incurred by the victim for physical or psychiatric treatment;
- (d) the income and financial status of the respondent;
- (e) feasibility of such payment in lump sum or in instalments.

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16. Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:

Prohibition of publication or making known contents of complaint and inquiry proceedings

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

17. Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section 16, he shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.

Penalty for publication or making known contents of complaint and inquiry proceedings Appeal

18. (1) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.

(2) The appeal under sub-section (/) shall be preferred within a period of ninety days of the recommendations.

CHAPTER VI DUTIES OF EMPLOYER

19. 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;

Duties of employer

(b) Display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting, the Internal Committee under sub-section (i) of section 4;

(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 in the manner as may be prescribed;

(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, as the case may be;

(f) Make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section (i) of section 9;

(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 for the time being in force;

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(h) Cause to initiate action, under the Indian Penal Code or any other law for the time being in force, 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;

45 of 1860

(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.

CHAPTER VII DUTIES AND POWERS OF DISTRICT OFFICER

20. The District Officer shall, –

(a) monitor the timely submission of reports furnished by the Local Committee;

(b) take such measures as may be necessary for engaging non-governmental organisations for creation of awareness on sexual harassment and the rights of the women.

Duties and powers of District officer

CHAPTER VIII

MISCELLANEOUS

Committee to submit annual report

21. (1) 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.

(2) The District Officer shall forward a brief report on the annual reports received under sub-section (/) to the State Government.

Employer to include information in annual report.

22. 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.

Appropriate Government to monitor implementation and maintain data

23. The appropriate Government shall monitor the implementation of this Act and maintain data on the number of cases filed and disposed of in respect of all cases of sexual harassment at workplace.

Appropriate Government to take measures to publicise the Act.

24. The appropriate Government may, subject to the availability of financial and other resources,—

(a) develop relevant information, education, communication and training materials, and organise awareness programmes, to advance the understanding of the public of the provisions of this Act providing for protection against sexual harassment of woman at workplace;

(b) formulate orientation and training programmes for the members of the Local Complaints Committee.

25. (1) The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace to do so, by order in writing,—

(a) call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require;

(b) authorise any officer to make inspection of the records and workplace in relation to sexual harassment, who shall submit a report of such inspection to it within such period as may be specified in the order.

(2) Every employer and District Officer shall produce on demand before the officer making the inspection all information, records and other documents in his custody having a bearing on the subject matter of such inspection.

26. (1) Where the employer fails to—

(a) constitute an Internal Committee under sub-section (I) of section 4;

(b) take action under sections 13, 14 and 22; and

(c) 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.

(2) 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

Power to call for information and inspection of records

Penalty for non-compliance with provision of Act.

(i) 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;

(ii) cancellation, of his 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.

27.(1) No court shall take cognizance of any offence punishable under this Act or any rules made thereunder, save on a complaint made by the aggrieved woman or any person authorised by the Internal Committee or Local Committee in this behalf.

Cognizance of offence by Courts

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Every offence under this Act shall be non-cognizable.

28. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Act not in derogation of any other law

29.(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power of appropriate Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the fees or allowances to be paid to the Members under sub-section (4) of section 4;

(b) nomination of members under clause (c) of sub-section (1) of section 7;

(c) the fees or allowances to be paid to the Chairperson, and Members under sub-section (4) of section 7;

(d) the person who may make complaint under sub-section (2) of section 9;

(e) the manner of inquiry under sub-section (i) of section 11;

(f) the powers for making an inquiry under clause (c) of sub-section (2) of section 11;

(g) the relief to be recommended under clause (c) of sub-section (1) of section 12;

(h) the manner of action to be taken under clause (i) of sub-section (3) of section 13;

(I) the manner of action to be taken under sub-sections (i) and (2) of section 14;

(j) the manner of action to be taken under section 17;

(k) the manner of appeal under sub-section (i) of section 18;

(l) the manner of organising workshops, awareness programmes for sensitising the employees and orientation programmes for the members of the Internal Committee under clause (c) of section 19; and

(m) the form and time for preparation of annual report by Internal Committee and the Local Committee under sub-section (1) of section 21.

(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Any rule made under sub-section (4) of section 8 by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to
remove
difficulties

30. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

P.K. MALHOTR A,
Secy, to the Govt, of India.

**MINISTRY OF WOMEN AND CHILD DEVELOPMENT
NOTIFICATION**

New Delhi, the 9th December, 2013

G.S.R. 769(E) – In exercise of the powers conferred by section 29 of the sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement – (1) These rules may be called the sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Rules, 2013.

(2) They shall come into force on the date of their publication in the official Gazette.

2. **Definitions** – In these rules, unless the context otherwise requires,-

(a) "Act" means the sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Act 2013 (14 of 2013);

(b) "Complaint" means the complaint made under section 9

(c) "Complaints Committee" means the internal committee or the local committee as the case may be:

(d) "incident" means an incident of sexual harassment as defined in clause (n) of section 2;

(e) "Section" means a section of the Act;

(f) "Special educator" means a person trained in communication with people with special needs in a way that addresses their individual differences and needs;

(g) Words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. **Fees or allowances for Member of Internal Committee** : (1) The Member appointed from amongst non-government organisations shall be entitled to an allowance of two hundred rupees per day for holding the proceedings of the Internal Committee and also the reimbursement of travel cost incurred in travelling by train in three tier air condition or air conditioned bus and auto rickshaw or taxi, or the actual amount spent by him on travel, whichever is less.

The employer shall be responsible for the payment of allowances referred to in sub-rule (1).

4. **Person familiar with issues relating to sexual harassment** – Person familiar with the issue relating to sexual harassment for the purpose of clause (c) of sub-section (1) of section 7 shall be a person who has expertise on issues relating to sexual harassment and may include any of the following :-

(a) a social worker with at least five years experience in the field of social work which leads to creation of societal conditions favourable towards empowerment of women and in particular in addressing workplace sexual harassment;

(b) a person who is familiar with labour, service, civil or criminal law.

1. **Fees or allowances for Chairperson and Members of Local Committee** :- (1) The Chairperson of the Local Committee shall be entitled to an allowance of two hundred and fifty rupees per day for holding the proceeding of the said committee.

2. The members of the local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) of section 7 shall be entitled to an allowance of two hundred rupees per day for holding the proceedings of the said committee and also the reimbursement of travel cost incurred in travelling by train in three tier air condition or air conditioned bus and auto rickshaw or taxi or the actual amount spent by him on travel, whichever is less.

The District officer shall be responsible for the payment of allowance referred to in sub-rules (1) and (2).

6. **Complaint of sexual harassment** – For the purpose of sub-section (2) of Section 9,-

- i. Where the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by-
 - a. her relative or friend; or
 - b. her co-worker; or
 - c. an officer of the National Commission for Women or State Women's Commission or
 - d. any person who has knowledge of the incident with the written consent of the aggrieved woman
 - (ii) Where the aggrieved woman is unable to make a complaint on account of her mental incapacity a complaint may be filed by-
 - a. Her relative of friends; or
 - b. A special educator; or
 - c. A qualified psychiatrist or psychologist; or
 - d. The guardian of authority under whose care she is receiving treatment or care; or
 - e. Any person who has knowledge of the incident jointly with her relative or friends or a special educator or qualified psychiatrist or psychologist or guardian or authority under whose care she is receiving treatment of care;
 - (iii) Where the aggrieved woman for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident with her written consent;
 - (iv) Where the aggrieved woman is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of her legal heir.
7. **Manner of inquiry into complaint-(1)** Subject to the provisions of section 11, at the time of filling the complaint the complainant shall submit to the complaints committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.
- (2) On receipt of the complaint, the Complaints Committee shall send one of the copies received from the aggrieved woman under sub-rule (1) to the respondent within a period of seven working days.
 - (3) The respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses within a period not exceeding ten working days from the date of receipt of the documents specified under sub-rule (1).
 - (4) The Complaints Committee shall make inquiry into the complaint in accordance with the principles of natural justice.
 - (5) The Complaints Committee shall have the right to terminate the inquiry proceeding or to give an ex-parte decision on the complaint, if the complainant or respondent fails, without sufficient cause to present herself or himself for three consecutive hearings convened by the Chairperson or Presiding officer, as the case may be:

Provided that such termination or ex-parte order may not be passed without giving a notice in writing fifteen days in advance, to the party concerned.
 - (6) The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceeding before the Complaints Committee.
 - (7) In conducting the inquiry, a minimum of three Members of the Complaints Committee including the Presiding Officer or the Chairperson, as the case may be, shall be present.
- (8) **Other relief to complainant during pendency of inquiry.-** The Complaints Committee at the written request of the aggrieved woman may recommend to the employer to-
- a. restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, and assign the same to another officer;

- b. restrain the respondent in case of an educational institution from supervising any academic activity of the aggrieved woman.

9. Manner of taking action for sexual harassment – Except in case where service rules exist, where the Complaints Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District officer, as the case may be, to take any action including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating the responding from service or undergoing a counselling session or carrying out community service.

10. Action for false or malicious complaint or false evidence : Except in cases where service rules exist, where the Complaints 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 or District Officer, as the case may be, to take action in accordance with the provisions of rules 9.

11. Appeal : Subject to the provisions of section 18, any person aggrieved from the recommendation made under sub-section (2) of section 13 or under clauses (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the appellate authority notified under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946).

12. Penalty for contravention of provisions of section 16.- subject to the provisions of section 17, if any person contravenes the provisions of section 16, the employer shall recover a sum of five thousand rupees as penalty from such person.

13. Manner to organise workshops, etc- Subject to the provisions of section 19, every employer shall-

- a. formulate and widely disseminate an internal policy or charter or resolution or declaration for prohibition, prevention and redressal or sexual harassment at the workplace intended to promote gender sensitive safe spaces and remove underlying factors that contribute towards a hostile work environment against women;
- (b) carry out orientation programmes and seminars for the Members of the Internal Committee;
- (c) carry out employees awareness programmes and create forum for dialogues which may involve Panchayati Raj Institutions, Gram Sabha, women's groups, mother's Committee, adolescent groups urban local bodies and any other body as may be considered necessary;
- (d) conduct capacity building and skill building programmes for the Members of the Internal Committee;
- (e) declare the names and contact details of all the Members of the Internal Committee
- (f) Use modules developed by the State Governments to conduct workshops and awareness programmes for sensitising the employees with the provisions of the Act,

14. Preparation of annual report.- The annual report which the Complaints Committee shall prepare under Section 21, shall have the following details:

- (a) number of complaints of sexual harassment received in the year;
- (b) number of complaints disposed off during the year;
- (c) number of case pending for more than ninety days;
- (d) number of workshops or awareness programme against sexual harassment carried out;
- (e) nature of action taken by the employee or District Officer.

[F. No. 19-5/2013-WW]

Dr. SHREERANJAN. Jt. Secy.

Women and Child Development Department
Government of Odisha

No. 23393 /WCD.,
WCD-WW-SCHM-1-0036/2013

Date 7.12.13

From

Arti Ahuja, IAS
Commissioner-cum-Secretary,
Women & Child Development Department.

To

All Principal Secretaries/Commissioner-cum-Secretaries/Secretaries

The Revenue Divisional Commissioner, (Central, Northern, Southern)

All Collectors

Sub: Constitution of "Internal Complaints Committee" under provision of the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013.

Madam/Sir,

This is with reference to the earlier letter no- 21267 dt. 7.11.13 of the Women & Child Development Department addressed to Secretaries of all the Departments along with copies of The Sexual Harassment at Workplace (Prevention, Prohibition & Redressal) Act, 2013. However for ease of administering the provisions, the following is reiterated;

As per the said Act, an Internal Complaints Committee is to be constituted in all workplaces consisting of the following members, namely:

- A presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other Offices or Administrative units of the workplace referred to in sub-section (I).

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation.

- 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.
- 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.

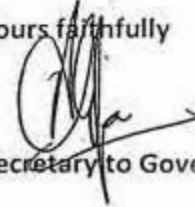
Provided that at least one-half of the total members, so nominated, shall be women.

The Presiding Officer and every member of the Internal Complaints Committee shall hold office for a period not exceeding three years, from the date of their nomination.

Therefore you are requested to ensure constitution of Internal Complaints Committee as per provisions of The Sexual Harassment at Workplace (Prevention, Prohibition & Redressal) Act, 2013 in your Department as well as all the organisations under your administrative control and create awareness among the employees to follow the provisions of the Act in true letter and spirit.

Action taken in this regard may please be intimated to the undersigned by 15th December.

Yours faithfully



Commissioner-cum-Secretary to Government

Women and Child Development Department
Government of Odisha

No. 23399 /WCD.,
WCD-WW-SCHM-1-0036/2013

Date 7.12.13

NOTIFICATION

In pursuance to the provisions contained in the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013; the Collector of each district is hereby notified as the District Officer for that district to exercise powers & discharge functions under the said Act.

Every District Officer needs to constitute the Local Complaints Committee to receive complaints of sexual harassment from establishments where the Internal Complaints Committee is not constituted or if the complaint is against the employer himself. The Local Complaints Committee shall consist of the following members:

- Chairperson to be nominated from amongst eminent women in the field of social work and committed to the cause of women.
- One member to be nominated from amongst the women working in block, tehsil or ward or municipality in the district.
- Two members, of which at least one shall be a woman, to be nominated from NGOs or associations committed to the cause of women or person familiar with the issues relating to sexual harassment, which may be prescribed:

Provided that at least one of the nominees should, preferably have a background in law or legal knowledge.

Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled tribes or the Other Backward Classes or minority community.

- The concerned Officer dealing with the social welfare or women and child development in the district, shall be a member ex officio.

The Chairperson and every member of the Local Complaints Committee shall hold office for a period not exceeding three years; from the date of their appointment.

Order: Ordered that this notification be published in the Odisha Gazettee and copies be supplied to all Departments of Government.

Commissioner -cum- Secretary to Government

Memo No. 23400 /WCD., Date 7.12.13

Copy forwarded to all the Collectors for information and necessary action.

Ex-Officio Deputy Secretary to Government

Memo No. 23401 /WCD., Date 7.12.13

Copy forwarded to all Departments of Government/ all Directorates for information and necessary action.

Ex-Officio Deputy Secretary to Government

Memo No. 23402 /WCD., Date 7.12.13

Copy forwarded to the Deputy Director, Printing Stationery, Unit-III, Bhubaneswar for information & necessary action. He is requested to supply 500 copies to W & CD Department.

Ex-Officio Deputy Secretary to Government

Memo No. 23403 /WCD., Date 7.12.13

Copy forwarded to all Officers, all Sections of the Department for information and necessary action.

Ex-Officio Deputy Secretary to Government

Memo No. 23404 /WCD., Date 7.12.13

Copy forwarded to Private Secretary to the Hon'ble Chief Minister, all Ministers, all Ministers of State for kind information of the Hon'ble Chief Minister, the Hon'ble Minister & the Hon'ble Minister of the State.

Ex-Officio Deputy Secretary to Government

Women and Child Development Department
Government of Odisha

No. 23394
WCD-WW-SCHM-1-0040/2013

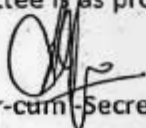
Date 7.12.13

NOTIFICATION

In pursuance to provisions contained in Section 4 of The Sexual Harassment at Workplace (Prevention, Prohibition & Redressal) Act, 2013; Women & Child Development Department has been pleased to constitute an Internal Complaints Committee having the following members:


Srl. No.	Name & Designation	Status
1	Smt. Arti Ahuja, IAS Commissioner-cum-Secretary	Presiding Officer
2	Smt. Aswathy S. IAS Director, Social Welfare- cum- Additional Secretary to Government	Member
3	Smt. Subhra Mohanty, OAS Ex-Officio Deputy Secretary to Government	Member Convener
4	Smt. Durgesh Nandini Sahoo, OAS Ex-Officio Under Secretary to Government	Member
5	Ms. Padmavatti Yedala	Expert on Gender Issues

The Internal Complaints Committee shall hold office for one year from the date of publication of this notification and the mandate of the Committee is as provided under the Act specified above.


Commissioner-cum-Secretary to Government


Memo No. 23395 /WCD., Date 7.12.13

Copy forwarded to all members of the Committee for information and necessary action.


Ex-Officio Deputy Secretary to Government

Memo No. 23396 /WCD., Date 7.12.13

Copy forward to Deputy Director, Printing Stationery, Unit-III, Bhubaneswar for information and necessary action. He is requested to supply 100 copies to W & CD Department.


Ex-Officio Deputy Secretary to Government

Memo No. 23397 /WCD., Date 7-12-13

Copy forwarded to all Officers, all Sections of the Department for information and necessary action. They are requested to circulate this among all the staffs of the Department.

7-12-13
Ex-Officio Deputy Secretary to Government

Memo No. 23398 /WCD., Date 7-12-13

Copy forwarded to Private Secretary to Hon'ble Chief Minister, Hon'ble Minister, Women & Child Development Department, for kind information of Hon'ble Chief Minister, Hon'ble Minister, Women & Child Development Department.

7-12-13
Ex-Officio Deputy Secretary to Government

Government of Odisha
Women & Child Development Department

NOTIFICATION

No. 7877

Date 16.5.14


WCD-WW-SCHM-1-0034/2014

In pursuance to provisions contained in Section 4 of The Sexual Harassment at Workplace (Prevention, Prohibition & Redressal) Act, 2013; the State Government hereby constitute a Secretariat Sexual Harassment Committee, consisting of the following members:

Srl. No.	Designation	Status
1	The Senior most woman IAS officer in the Secretariat or its Adjoining offices.	Chairperson/ Presiding Officer
2	Principal Secretary, Home Department	Member
3	Special Secretary, G.A. Department	Member
4	Programme Manager, UNICEF, Odisha	Member
5	Secretary, W & CD Department	Member Convenor

- The Secretariat Sexual Harassment Committee will deal with complaints of sexual harassment of women at workplace of various Departments of the Government located at the Government Secretariat, and adjoining Government Offices including Heads of Department.
- The Committee will examine complaints against Officers of the rank of Joint Secretary & above.
- The working of the Committee shall be in accordance with The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act & Rules, 2013.

By order of Governor,



Commissioner-cum-Secretary,
Women & Child Development Department

Memo No. 7878

WCD,

Date 16.5.14

Copy forwarded to (1) Dr. Mona Sharma, IAS, Chief Electoral Officer & Ex-officio Principal Secretary to Government, Home (Election) Department, Odisha (Senior most woman IAS Officer in the Secretariat or its adjoining Offices)/Principal Secretary, Home Deptt/Special Secretary, G.A. Deptt/Programme Manager, UNICEF, Odisha for information and necessary action.


Commissioner-cum-Secretary

2+2
Memo No. 7879

WCD,

Date 16.5.14

Copy forwarded to Commissioner-cum-Secretary to His Excellency, Governor, Odisha/Secretary, Odisha Legislative Assembly/Secretary to Lokpal/Odisha Administrative Tribunal for information and necessary action.

16.5.14
Deputy Secretary to Government

Memo No. 7880

WCD,

Date 16.5.14

Copy forwarded to the Private Secretary to the Hon'ble Chief Minister / All Ministers / All Minister of state for kind information of Hon'ble Chief Minister, Hon'ble Ministers, Hon'ble Minister of State.

16.5.14
Deputy Secretary to Government

Memo No. 7881

WCD,

Date 16.5.14.

Copy forwarded to all Departments / All Heads of Department / All Revenue Divisional Commissioner for information and necessary action.

16.5.14
Deputy Secretary to Government

Memo No. 7882

WCD,

Date 16.5.14

Copy forwarded to the Deputy Director, Printing Stationery, Unit-III, Bhubaneswar for information with the request to publish the notification in the extraordinary issue of Gazette and furnish 500 copies of the same to the Women and Child Development Department for necessary action.

16.5.14
Deputy Secretary to Government

