

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

➤ **OBJECT:**

The Act came into force w.e.f. 22nd April, 2013 with an object to protect a woman employee against sexual harassment & the right to work with dignity.

➤ **AREA OF COVERAGE:**

It is applicable to the whole of India.

➤ **DEFINITION OF AGGRIEVED WOMAN:**

1. It means a woman of any age whether employed or not in a relation to a workplace who alleges to have been subjected to any act of sexual harassment by the respondent.
2. In relation to dwelling place or house, a woman of any age who is employed in such a dwelling place or house. (Like domestic servant)

➤ **DEFINITION:**

- a) **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.
- b) **“Domestic worker”** means a woman who is employed to do the household work but does not include any member of the family of the employer.
- c) **“Sexual Harassment”** includes any one or more of the following unwelcome acts or behavior namely:-
 - Physical contact and advances, or
 - A demand or request for sexual favours, or
 - Making sexually coloured remarks or
 - Showing pornography, or
 - Any other unwelcome physical, verbal or non verbal conduct of sexual nature
- d) **“Extra Circumstances”** the following circumstances may also amount to sexual harassment:-
 - Implied or explicit promise of preferential treatment in her employment or
 - Implied or explicit threat of detrimental treatment in her employment or
 - Implied or explicit threat about her present or future employment status or
 - Interference with her work or creating an intimidating or offensive or hostile work environment for her or
 - Humiliating treatment likely to affect her health or safety

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➤ CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE:

Every employer of a workplace shall by an order and writing constitute a Committee to be known as the **Internal Complaint Committee**. The Committee shall be constituted at all administrative units or offices.

Internal Complaint Committee consist the following members to be nominated by the employer.

- a) A **Presiding Officer** who shall be a woman employed at a senior level at workplace from amongst the employees.
- b) In case of a senior level woman is not available. The Presiding Officer shall be nominated from other offices or administrative units of the workplace.
- c) Not less than two members from amongst employees preferably committed to the cause of women who have had experience in social work or have legal knowledge.
- d) One member amongst non-governmental organizations 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.

➤ PERIOD OF COMMITTEE:

- a) The period of internal committee shall not exceed three years, from the date of nomination.
- b) The member appointed from amongst the NGO or Association shall be paid such fees or allowances for holding the proceedings of the internal committee by the employer as may be prescribed.
- c) In case of removal of any committee members in such case vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

➤ CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE:

- a) The appropriate Government may notify a District Magistrate or Additional Magistrate or the Collector or Deputy Collector as a **District Officer** for every district.
- b) Every District Officer shall constitute a district committee to be known as the "Local Complaints Committee" to receive complaints of sexual harassment from

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establishment 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.

- c) 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**.
- d) The local complaint committee shall consist:
- A Chairperson to be nominated amongst the **eminent women** in the field of social work and committed to the cause of women.
 - A One member to be nominated amongst the women working in block, taluka or tehsil or ward or municipality district.
 - Two members of whom at least one shall be a woman shall be nominated from NGO.
 - The concerned officer dealing with the social welfare or women and child development in the district shall be a member ex officio.

➤ COMPLAINT:

- a) Any aggrieved woman may make in writing a complaint of sexual harassment at workplace to the Internal Committee or the local committee within period of **three months** from the date of incident
- b) Where the complaint cannot be made in writing a member of committee shall render all reasonable assistance to the woman for making the complaint in writing.
- c) Internal committee has power to **extend the time limit not exceeding three months** if it is satisfied that the circumstances were such which prevented the woman from filling a complaint within the said period.
- d) 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 may also make complaint.
- e) Before initiating any inquiry the committee may request the aggrieved woman to take steps to settle the matter between her and the respondent through the conciliation. However, **monetary settlement shall not be allowed**.
- f) Where settlement has been arrived a committee records the settlement and forwards the same to the employer or the district officer as the case may be.
- g) The committee shall provide the copies of settlement to both the parties.

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- h) Once settlement is arrived not further inquiry shall be conducted by the committee.
- i) If prima facie case exists the committee shall forward the complaint to the police within **seven days** for registering the case **under section 509 of the IPC**.
- j) If 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.
- k) The committee shall have the same powers as are vested in a civil court under the code of Civil Procedure, 1908 namely:
 - 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
- l) **The inquiry shall be completed within a period of 90 days.**

➤ INQUIRY INTO COMPLAINT:

- a) During the pendency of an inquiry, on a written request by the woman may recommend to the employer.
 - Transfer the woman or the respondent to any other workplace.
 - Grant leave to the woman up to the period of three months.
 - Any other relief to the woman as may be prescribed. The leave granted shall be addition to the leave she would have been entitled.
 - On the recommendation of the committee the employer shall implement the same and report to the committee.
 - The committee shall provide report of final findings to the employer within a period of **10 days** from the date of completion of the inquiry and copy of search shall be made available to the concerned parties.

➤ ACTION OF COMMITTEE:

- a) **The committee shall recommend to the employer as under:**
 - To take action as a misconduct as per the Act
 - To deduct salary or wages of the respondent any such amount to be paid to the woman or to her legal heirs.
 - In case of employer unable to deduct the sum from the salary the committee shall direct respondent to pay such amount to the woman if he fails to pay the sum the

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committee shall forward the order for recovery of the sum as arrears of land revenue to the concerned District Officer.

- The District Officer shall act within 60 days of its receipts by him.

b) False Complaint:

- In case of any woman or other person making false complaint and has produced forged or misleading documents, the committee recommend to the employer or the District Officer to take action against the woman or the person who has made the complaint.
- In case of false evidence produced by the witness during the inquiry the committee recommend to the employer or the District Officer to take action against the witness.

c) Determination of the sum (Compensation):

The Committee decides the sums to be paid to the aggrieved woman based on followings:

- The mental trauma, pain, suffering & emotional distress cause to the woman.
- The loss of career opportunity.
- Medical expenses incurred by the victim.
- The income & financial statement status of the respondent.
- Feasibility of such payment in lump sum or in installments.

d) Prohibition of publication:

- The identity & address of the aggrieved woman, respondent & witnesses shall not be published, communicated or made known to the public, press & media in any manner.

➤ **DUTY OF EMPLOYER:**

- Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace.
- Display at proper place the panel consequences of sexual harassments.
- Organise workshop & awareness programs at regular intervals.
- Provide necessary facilities to the committee.
- Assist in securing the attendance of respondent and witness before committee.
- Make available such information to the committee.
- Provide assistant to the woman including complaint to the Police Station.
- Initiate action against the perpetrator (third Party).
- Treat sexual harassment as misconduct under the service rules.

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- Monitor the timely submission of report by the internal committee.

➤ MISCELLANEOUS:

- The committee shall prepare their Annual Report in each calendar year in such form at such time as may be prescribed to the employer.
- In case of District Officer, he shall submit report to the state govt.
- The Employer shall include in his report the no. of cases filed if any and their disposal under this Act in the annual report to the District Officer.

➤ PENALTY:

Where employer fails to:

- Constitute an internal committee.
- Fails to take action recommended by committee.
- Contravenes of the provisions of the Act.

He shall be punishable with fine which may extend to fifty thousand rupees.

In the case of subsequent offence, he shall be liable to-

- Twice the punishment, imposed on a first conviction.
- Cancellation of his license or withdrawal or non-renewal or approval or cancellation of the registration, required for carrying on his business or activity.
- Every offence under this Act shall be non-cognizable.

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