



Prevention of Sexual Harassment (PoSH) at Workplace

A Health Promotion Approach

Respect Begets Respect



Central Health Education Bureau

Directorate General of Health Services, Ministry of Health & Family Welfare, Government of India

5, Kolla Road, New Delhi-110002



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

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is an important piece of legislation in India aimed at addressing and preventing sexual harassment of women in the workplace.

Objective of The Act

- ◆ The Act was enacted to provide women with a safe and secure working environment, free from harassment and discrimination.
- ◆ An Act to provide conducive environment for redressal of complaints of sexual harassment.

Definitions-

2(a) **“Aggrieved Woman”** means-

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

2(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.

2(g) **“Employer”** In relation to any department or organization, the head of that department or organization;

2(l) **“Presiding Officer”** means the Presiding Officer of the Internal Complaints Committee nominated under sub-section (2) of section 4;

2(m) **“Respondent”** means a person against whom the aggrieved woman has made a complaint under section 9;



Applicability of The Act

It extends to the whole of India.

The Act applies to all workplaces, whether in the public or private sector, and includes organizations, institutions, and non-governmental organizations. It also covers clients, customers, and any other person visiting the workplace.

Workplace is defined as “any place visited by the employee arising out of or during the course of employment, including transportation provided by the employer for undertaking such a journey.” As per this definition, a workplace covers both the organised and un-organised sectors.

Sexual Harassment of women at workplace

2(n) **“Sexual Harassment”** includes any one or more of the following unwelcome acts or behavior (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;

2(o) **“Workplace”**

- i Any organization owned, controlled or wholly or substantially financed by funds provided by Government
- ii Any private sector organization including institution, society, trust, NGO, Unit or service provider carrying out commercial, professional, vocational, educational, entertainment, industrial, health service, financial activities including production, supply, sale, distribution or services
- iii Hospitals or nursing homes
- iv Sports institute, stadium, sports complex or competition or game venue, whether residential or not used for training, sports or other activities relating thereto
- v Any place visited by employee arising out or during the course of employment including transportation provided by the employer
- vi A dwelling place or a house



Steps to be taken by the victim

Sexual Harassment incident at Workplace

Written complaint - filed by the employee within 3 months from the date of the last incident

Employer has to submit the matter to the Internal Complaints Committee (ICC)

Choice of Conciliation or taking the matter forward

Process of the ICC (Start enquiry)

Constitution of Internal Complaint Committee

- Presiding Officer to be a woman at a senior level
- Not less than two Members from amongst employees with experience in social work or have legal knowledge
- One member from amongst NGO or a person familiar with issues relating to Sexual Harassment
- Display of ICC order of Sexual Harassment and penal consequences

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.





Example of Constitution of Internal complaint committee

F. No.
Government of India
Ministry of Health and Family Services
Directorate General of Health Services
(Central Health Education Bureau)

G. Kaila Road,
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Dated: 2024

Office Order

Subject: Internal Complaint Committee under Sexual Harassment of Women of Work Place (Prevention, Prohibition and Redressal), Act, 2013.

In terms of provision of Section 4 of the Sexual Harassment of Women of Work place (Prevention, Prohibition and Redressal) Act, 2013, and in supersession of earlier Office Order dated 09.12.22, an Internal Complaints Committee (ICC) for Central Education Bureau is re-constituted as under:

1	Dr. Anil Kumar, 2001, New Delhi, 110029	Chairperson
2	Dr. Anand Kumar, 2001, New Delhi, 110029	Member
3	Dr. Anil Kumar, 2001, New Delhi, 110029	Member
4	Ms. Pooja Singh, Manager, Training & Capacity Building, National Sahasraru Children Foundation, New Delhi.	Member
5	Dr. Anand Kumar, 2001, New Delhi, 110029	Member Secretary

Note - The complaint of Sexual Harassment may be sent on email id _____
Respondent found guilty of Sexual Harassment shall be liable to face penal consequences of Sexual Harassment.

Sd/-

Time Line

1 Submission of Complaint-
Within 3 months of the last incident-
Sec 9 (1)

2 Completion of Inquiry-
Within 90 days-
Sec 13 (4)

3 Submission of Report by ICC/LCC
to employer/DO-Within 10 days of
completion of the inquiry- sec 13 (1)

4 Implementation of
Recommendations Within 60 days-
Sec 13 (4)

5 Appeal- Within 90 days of
the recommendations-
Sec 18 (2)



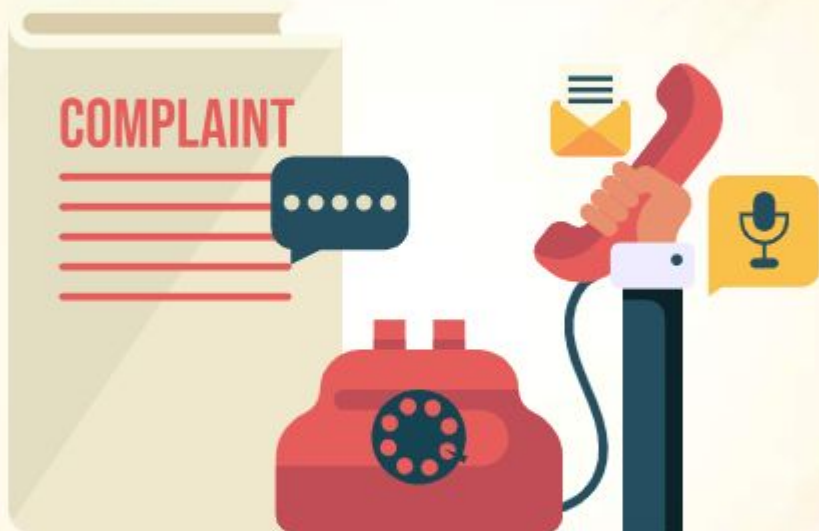
Redressal mechanism

Complaint

Complaint of Sexual Harassment-

Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee.

The Act provides for both conciliation and inquiry as methods of resolving complaints of sexual harassment.



Conciliation

If the complainant chooses conciliation, she can make a request to the ICC for the same. If the respondent (the person accused of harassment) agrees to participate in the conciliation process, the ICC may proceed with conciliation.

If the parties involved in the conciliation process reach an agreement, the terms of the agreement are recorded. The agreement must be signed by both the complainant and the respondent. Once signed, the agreement is binding on both parties.



Inquiry Into Complaint

- If the conciliation attempt is unsuccessful, or if the complainant does not agree to conciliation, the ICC proceeds with the inquiry into the complaint.
- The ICC conducts a detailed inquiry into the complaint of sexual harassment. This inquiry is meant to gather evidence, interview witnesses, and evaluate the claims made by both the complainant and the respondent.
- The investigation is to be done in 90 days and have to send the inquiry report within 10 days after completion of inquiry.
- The recommendations made by the committee has to be implemented within 60 days of receiving the report.
- Appeal - within 90 days of recommendations.



Inquiry Report

- After 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, within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.
- 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 that no action is required to be taken in the matter.
After completion of inquiry, actions against the respondent
- A suitable amount of salary would be deducted from the person guilty of an offence and that salary would be provided to the aggrieved women or her legal heirs.
- As per the service rules, a proceeding will be initiated against the person guilty of sexual assault.



Determination of Compensation

For the purpose of determining the sums to be paid to the aggrieved woman the Internal Committee or the Local Committee, as the case may be, shall have regard to—

- (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

Malicious Complaint

Section 14

- If allegations against the respondent is malicious or knowing it to be false, or forged or misleading document produced, action can be taken against the woman, in accordance with the service rules.
- Provided mere inability to substantiate a complaint need not attract action.

Confidentiality

Section 16

The identity and addresses of the aggrieved woman respondent and witnesses

Information relating to conciliation and inquiry proceedings recommendations of the Local Committee action taken by the employer

Shall not be published





◆ **Penalty for publication**

Section 17

Any person entrusted with the duty of handling a complaint if contravenes confidentiality, he shall be liable for penalty in accordance with provisions of service rules.

◆ **Appeal**

Section 18

Any person aggrieved by the recommendations made under sub-section

13 (2) (allegations against respondent not proved)

13 (3) (i)(ii) (to take action for Sexual Harassment or make deduction from salary)

14 (2) (punishment for malicious complaint)

17 (publishing content of complaint)

Can prefer an Appeal to the Court or the Tribunal in accordance with Service Rules.

Appeal to be preferred within 90 days



 **90** DAYS



Duties of Employer- every employer shall ;

Section 19

- Provide a safe working environment at the workplace, including safety from persons coming into contact
- Display the penal consequences of Sexual Harassments
- Display constitution of the Complaint Committee
- Organise workshops and awareness programs at regular intervals
- Conduct orientation programs for the members of the Committee
- Provide necessary facilities and assistance to the Committee
- Treat sexual harassment as a misconduct under the service rules
- Monitor the timely submission of reports by the Internal Committee

Committee to submit annual report

Section 21

- The Committee shall in each calendar year should submit the report to the employer

Employer to include information in annual report

Section 22

The employer shall include in its annual report

- The number of cases filed,
- Their disposal





Appropriate Government to take measure to publicise Act

Section 24

The appropriate Government may :

- Develop relevant information, education, communication and training materials
- Organise awareness programmes
- To advance the understanding of the public about the provisions of the Act for the protection against sexual harassment of women at workplace

Penalty for non-compliance with provision of this act

Section 26

1. Where the employer fails to

- constitute an Internal Committee (Section 4)
- Take actions under sub-section 13 (Inquiry Report), 14 (malicious complaint) and 22 (information in Annual Report)
- Contravenes/attempts to/abets contravention of other provisions of this Act or any Rule

Employer shall be punishable with fine which may extend to Rs-50000

2. If the employer, after having been previously convicted and subsequently commits an offence, he shall be liable to:

Twice the punishment which might have been imposed in first conviction and cancellation/registration as the case maybe.



Sexual harassment results in violation of fundamental right to equality, to life, to live with dignity and to practice any profession or to carry on any occupation, right to equal opportunities. This Act aims to achieve an environment free from sexual harassment



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