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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 24th January, 2022

No. F. 22(28)/2021-Legis.— The following Act of *Majlis-e-Shoora* (Parliament) received the assent of the President on the 21st January, 2022 is hereby published for general information:—

ACT NO. V OF 2022

to amend the Protection against Harassment of women at the Workplace Act, 2010.

WHEREAS it is expedient to amend the Protection against Harassment of women at the Workplace Act, 2010, (IV of 2010) for the purposes appearing hereinafter;

It is hereby enacted as follows:—

1. **Short title and commencement.**— (1) This Act shall be called the Protection against Harassment of women at the Workplace (Amendment) Act, 2022.

(29)

Price: Rs. 10.00

[7124(2022)/Ex. Gaz.]

(2) It shall come into force at once.

2. **Amendment of section 2, Act IV of 2010.**— In the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010), hereinafter referred to as the said Act, in section 2,—

(a) in clause (e), for the words “a woman or man”, the words “any person” shall be substituted and after the word “harassment”, the expression “and shall include a former employee who has been removed or dismissed from service or has resigned, and a parent or guardian where the complainant is a minor” shall be inserted;

(b) for clause (f), the following shall be substituted, namely:—

“(f) “employee” includes a regular, contractual, piece-rate, gig, temporary, part-time, freelance employee whether employed through express or implied contract on daily, weekly, monthly or hourly basis, and shall include a student, a performer, an artist, a sportsperson, an intern, trainee, a domestic worker, a home-based worker or an apprentice whether working for remuneration or not, or whether working on a voluntary basis or otherwise;”;

(c) in clause (g), in sub-clause (vi), the word “and” at the end shall be omitted and after sub-clause (vii), the following new sub-clauses shall be added, namely:—

(viii) person discharging any contractual obligations with respect to his employees and expressly or impliedly procures the services or labour of persons whether as freelancers or part-time employees;

(ix) a person who owns or manages an online or customer to customer or business to customer or any other virtual or remote business; and

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

(d) for clause (h), the following shall be substituted namely:—

“(h) “harassment” means—

(i) any unwelcome sexual advance, request for sexual favours, stalking or cyber stalking or other verbal, visual

or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, including any gestures or expression conveying derogatory connotation causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment; or

(ii) discrimination on basis of gender, which may or may not be sexual in nature, but which may embody a discriminatory and prejudicial mind-set or notion, resulting in discriminatory behavior on basis of gender against the complainant;"

(c) for clause (k), the following shall be substituted, namely:—

"(k) "Ombudsperson" means the Ombudsperson appointed under section 7;";

(f) elsewhere in the said Act, for the word "Ombudsman" the word "Ombudsperson" shall be substituted;

(g) in clause (1), for the expression "Companies Ordinance, 1984 (XLVII of 1984)" the expression "Companies Act, 2017 (Act No. XIX of 2017)" shall be substituted and after the word "institution", occurring at the end, the words "or online business" shall be inserted;

(h) for clause (n), the following shall be substituted, namely:—

"(n) "workplace" means the place of work or any place where services are rendered or performed by professionals, including educational institutions, gigs, concerts, studios, performance facilities, courts, highways, sporting facilities and gymnasiums, and shall include any building, factory, open area or a larger geographical area, where the activities of the organization or of employer are carried out and includes any situation that is linked to work or activity outside the office.".

3. Amendment of section 4, Act IV of 2010.— In the said Act, in section 4,—

(a) in sub-section (2), for the full stop at the end, the following expression shall be substituted, namely:—

"and, where applicable, apply appropriate child-sensitive procedures.";

(b) in sub-section (4),—

- (i) in the rider clause, after the word "penalties", the expression "as applicable" shall be inserted;
- (ii) in clause (ii), in sub-clause (d), the word "and" at the end shall be omitted and thereafter the following new sub-clause shall be inserted, namely:—
 - "(da) suspension or cancellation of a professional licence; and".

4. Amendment of section 5, Act IV of 2010.— In the said Act, in section 5, in sub-section (1), in clause (b), for the word "document", the words "documentary, audio or video evidence" shall be substituted.

5. Amendment of section 8, Act IV of 2010.— In the said Act, in section 8,—

- (a) in sub-section (1), for the word "employee", the word "complainant" shall be substituted; and
- (b) after sub-section (5), the following new sub-section shall be added, namely:—
 - "(6) The Ombudsperson shall decide a case or appeal, as the case may be, within a period of ninety days.".

6. Amendment of section 9, Act IV of 2010.— In the said Act, in section 9, after the full stop at the end, the expression "The President or the Governor, as the case may be, shall decide such representation within ninety days." shall be added.

7. Amendment of Schedule, Act IV of 2010.— In the said Act, in the Schedule, in the first paragraph,—

- (A) in clause (ii),—
 - (I) for the definition of "harassment", the following definition shall be substituted, namely:
 - "(ii) "harassment" means.—
 - (a) any unwelcome sexual advance, request for sexual favours, stalking or cyber stalking or other verbal, visual or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, including any gestures or expression conveying derogatory connotation causing

interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment; or

- (b) discrimination on basis of gender, which may or may not be sexual in nature, but which may embody discriminatory and prejudicial mind-set or notion, resulting in discriminatory behavior on basis of gender against the complainant:

Provided that a single incident having the effect of making a person uncomfortable or creating a sense of fear or panic at the workplace is also harassment.”; and

- (II) in the Explanation, for clause (b) the following shall be substituted, namely:—

“(b) Creating a hostile environment

Any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature, which interferes with an individual's work performance or creates an intimidating, hostile, abusive or offensive work environment; or any discrimination on basis of gender, which may or may not be sexual in nature, but which may embody a discriminatory and prejudicial mind-set or notion resulting in discriminatory behavior on basis of gender.

The typical “hostile environment” claim, in general, requires finding of a pattern of offensive conduct, however, in cases where the harassment is particularly severe, such as in cases involving physical contact or gender-based discrimination, a single offensive incident will constitute a violation.”; and

- (B) in clause (xi), after the full stop at the end, the following shall be added, namely:—

“Filing counter-blast suits for defamation etc. are also retaliation. The Ombudsperson or Inquiry Committee, as the case may be, should take notice of this in his or its proceedings.”.

TAHIR HUSSAIN,
Secretary.