

## Sexual Harassment at work place (Prevention, Prohibition & Redressal) Act, 2013

Act No. 14 of 2013

Enactment date. 22 April 2013

### Section-1. Short Title, commencement and application

- 1) This Act may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- 2) It extends to the whole of India
- 3) It shall come into force from 09 Dec. 2013.

### Section-2. Definition

- (a) **Aggrieved woman** – A woman without age limit, any place (working place, office, house, etc.), whether employed or not, who alleges have been subjected any act of sexual harassment by the respondent.
- (b) **Appropriate Govt.**- means Central Govt. or State Govt. or union territory, as the case may.
- (c) **Chairperson**- means the Chairperson of the Local Complaints Committee nominated under sub-section (1) of section 7.
- (d) **District Officer**- means an officer notified under section 5.
- (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.
- (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.
- (g) **Employer:** -means, in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority and any workplace not covered by authority, any person responsible for the management, supervision and control of the workplace. The nature of the employment or activities performed by the domestic worker at house or dwelling.
- (h) “**Internal Committee**” means an Internal Complaints Committee constituted under section 4;
- (i) “**Local Committee**” means the Local Complaints Committee constituted under section 6;



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- (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.
- (l) “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 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;
- (o) “workplace” includes—
  - (1) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided by Govt.
  - (2) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation
  - (3) hospitals or nursing homes;
  - (4) any sports institute, stadium, sports complex or competition or games venue.
  - (5) any place visited by the employee arising out of or during the course of employment including transportation by the employer for undertaking such journey;
  - (6) a dwelling place or a house;
- (p) “Un-organized sector” a workplace means an enterprise owned by individuals or self-employed workers; the number of such workers **is less than ten.**

### Section-3. Prevention of sexual harassment

- 1) No woman shall be subjected to sexual harassment at any workplace.
- 2) The following circumstances, if it occurs, or is present in relation to or connected with any act or behavior 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 ;
  - (iii) implied or explicit threat about her present or future employment status.



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- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her
- (v) humiliating treatment likely to affect her health or safety.

## CHAPTER II

### Constitution Of Internal Complaints Committee

#### Section-4. Constitution of Internal Complaints Committee. —

- (1) Every employer constitutes a committee to be known as the “**Internal Complaints Committee**” (ICC). (At administrative level).
- (2) The Internal Committees shall consist of 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) 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 organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.
  - (d) at least **one-half of the total Members** so nominated shall be women.
- (3) The term of office of Presiding Officer and every Member of the Internal Committee shall not exceed **three years** or specified by the employer.
- (4) The Member appointed from amongst the NGO or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer.
- (5) Where the Presiding Officer or any Member of the Internal Committee-
  - (a) contravenes the provisions of section 16
  - (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 shall be filled by fresh nomination.



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### CHAPTER III

#### Constitution of Local Complaints Committee

##### Section-5. Notification of District Officer.—

- 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.

##### Section-6. Constitution and jurisdiction of Local Committee—

- (1) Every District Officer shall constitute in the district concerned, a “Local Committee” to receive complaints of sexual harassment from establishments where the Internal Committee has not been constituted due to having less than ten workers or if the complaint is against the employer himself.
- (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 Committee within a period of seven days.
- (3) The jurisdiction of the Local Committee shall extend to the areas of the district where it is constituted.

##### Section-7. Composition, tenure and other terms and conditions of Local Committee.—

- (1) The Local Committee shall consist of the following members to be nominated by the District Officer, namely: —
  - 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 organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed.
  - d) The social welfare or women and child development officer in the district, shall be a member ex officio.
- (2) Term of office of the Chairperson and every Member of the Local Committee shall, not exceeding three years or specified by the District Officer.



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- (3) Where the Chairperson or any Member of the Local Committee—
  - (a) contravenes the provisions of section 16.
  - (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.
  - (c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him.
  - (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
- (4) The Chairperson or Members of the Local Committee other than the Members nominated shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.

#### **Section-8. Grants and audit.**

- (1) The Central Government allotted grants to state government after approved by the parliament for utilized for the payment of fees or allowances.
- (2) the State Government may set up an agency and transfer the grants 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
- (4) The accounts of the agency shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State.

#### **CHAPTER IV-COMPLAINT**

#### **Section-9. Complaint of sexual harassment**

- (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:
- (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.

**Note: -**

- (1) All reasonable assistance to the woman for making the complaint in writing by the presiding officer.



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- (2) Complaint shall be submitted within three months but ICC/Local committee is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

## Section-10. Conciliation

- (1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation. No monetary settlement shall be made as a basis of conciliation.
- (2) Where settlement has been arrived, 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 to the aggrieved woman and the respondent.
- (4) Where a settlement is arrived, no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

## Section-11. Inquiry into complaint

- (1) 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 by ICC or LCC.
- (2) where no such rules exist or in case of a domestic worker, the LCC 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.
- (3) Where both the parties are employees, 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.
- (4) For the purpose of making an inquiry, the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court the Code of Civil Procedure, 1908 (5 of 1908).
- (5) The inquiry shall be completed within a period of ninety days. (90 days).



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## CHAPTER V- Inquiry into Complaint

### Section-12. Action during pendency of inquiry

- (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—
  - (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, the employer shall implement the recommendations and send the report of such implementation.

### Section-13. Inquiry report.

- (1) On the completion of an inquiry under this Act, the ICC or the LCC, as the case may be, shall provide a report of its findings to the employer, or the District Officer within a period of 10 days from the date of completion of the inquiry and such report be made available to the concerned parties.
- (2) If the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required.
- (3) If the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer,
  - (a) Action on respondent as per service as per conduct rules.
  - (b) Any amount paid to aggrieved woman/legal heirs will be deducted from the salary of respondent.
- (4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

### Section-14. Punishment for false or malicious complaint and false evidence

- **ICC or Local Committee**, as the case may be, 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 or witnesses.

### Section-15. 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.

#### **Section-16. Prohibition of publication or making known contents of complaint and inquiry proceedings.**

**Not to be publish, communicate and disclosed or under RTI act 2005.**

- (1) The contents of complaint
- (2) the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings,
- (3) recommendations of the Internal Committee or the Local Committee, the action taken by the employer or the District Officer.

#### **Section-17. Penalty for publication or making known contents of complaint and inquiry proceedings**

- 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.

#### **Section-18. Appeal**

- (1) Any person aggrieved from the recommendations made or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules.
- (2) The appeal shall be preferred within a period of ninety days (90 days) of the recommendations.

### **Chapter VI- Duties of Employer**

#### **Section-19. Duties of employer-** Every employer shall—

- (a) provide a safe working environment at the workplace with shall include safety from the persons coming into contact at the workplace.
- (b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting, the Internal Committee.



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- (c) organize workshops and awareness programs at regular intervals for sensitising the employees with the provisions of the Act and orientation program 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) provide assistance to the woman if she so chooses to file a complaint in relation to the offence
- (g) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- (h) monitor the timely submission of reports by the Internal Committee.

### Chapter VII- Duties & Powers of District Officer

#### **Section-20. Duties and powers of District Officer**

- (a) monitor the timely submission of report furnished by the Local Committee.
- (b) take such measures as may be necessary for engaging non-governmental Organizations for creation of awareness on sexual harassment and the rights of the women.

### CHAPTER VIII- Miscellaneous

#### **Section-21. Committee to submit annual report**

#### **Section-22. Employer to include information in annual report**

Preparation of annual report shall have following details: -

- (a) Number of complaints of sexual harassment received in the year
- (b) Number of complaints disposed during the year
- (c) Number of cases pending more than 90 days.
- (d) Number of workshops or awareness program against sexual harassment carried out.
- (e) Nature of action taken by employer or district officer.

#### **Section-23. Appropriate Government to monitor implementation and maintain data**

#### **Section-24. Appropriate Government to take measures to publicize the Act: -**

- Organized awareness program and organized training program for member of local committee.

#### **Section-25. Power to call for information and inspection of records**

- The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees.



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### **Section-26. Penalty for non-compliance with provisions of Act-**

- (1) Where the employer fails to-**
  - (a) constitute an Internal Committee
  - (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
  - (d) he shall be punishable with fine which may extend to **Rs. 50000/-.**
- (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-
  - (i) **twice the punishment**, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence:
  - (ii) **Cancellation**, of his license 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.

### **Section-27. Cognizance of offence by courts.**

- (1)** No court shall take cognizance of any offence punishable under this Act.
- (2)** Every offence under this Act shall be non-cognizable

### **Section-29. Power of appropriate Government to make rules**

- (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. The fees or allowances, nomination of members, the fees or allowances to be paid to the Chairperson etc.
- (2)** the manner of organizing workshops, awareness programs for sensitizing the employees and orientation programs for the members of the Internal Committee.

### **Section-30. Power to remove difficulties: -**

- No such order shall be made under this section after the expiry of a period of **two years** from the commencement of this Act.



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**Fee and Allowances for member of Internal complaint committee.**

- The member of appointed from non- government organization Rs.200 per day and travel with 3<sup>rd</sup> class air conditioner or air-conditioned bus and auto taxi or actual amount spent by him, whichever is less.

**Fee and Allowances for chairperson and Member of Local Committee.**

Chairperson Rs. 250/- per day

For members Rs. 200/- per day.

- And travel with 3<sup>rd</sup> class AC or AC bus and auto taxi or actual amount spent, whichever is less.

**Sexual Complaint submission and deciding Procedure**

- (1) The complainant should submit the complaint to ICC or LCC, in Six copies along with supporting documents and names and addresses of witnesses.
- (2) On the receipt of complaint, the complaints committee shall send one copy to respondent within the period of seven working days.
- (3) The respondent shall file their reply to complaint along with his list of documents, and names and addresses of witnesses, within a period not exceeding 10 days from the date of receipt of the complaint copy from committee.
- (4) If complainant or respondent fails, without sufficient cause, to attend three consecutive hearing conveyed by chairperson or Presiding officer. The Chairperson or Presiding officer shall have to right to ex- Parte decision on the complaint.
- (5) The ex- parte order may not be passed without giving a notice in writing, 15 days advance, to party concerned.



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