

NOTICE

Under Section 19(b) of

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act & the Rules, 2013

Part - 1 Objective:

The Government of India has notified "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Act & Rules, 2013, with effect from December 09th, 2013. Our organization has a strict policy defining a mechanism for redressal of complaints in the time bound manner against sexual harassment. Any person found guilty shall face severe penal consequences under this act.

Meaning of Sexual Harassment: sec.-2(n) & S-3(2)

Subjecting a woman to an unwelcoming sexually determined behaviour (whether directly or by implication)

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

Presence or occurrence of circumstance of implied or explicit promise of

- Preferential treatment in employment; or
- Threat of detrimental treatment in employment; or
- Threat about present or future employment; or
- Interference with work or creating an intimidating or offensive or hostile work environment; or
- Humiliating treatment likely to affect the lady employee's health or safety.

Procedure of filling a Complaint and manner of inquiry:

- Complaint should be made by an aggrieved woman in writing (6 copies of complaint + supporting documents *as per Rule-7(1)*) to "Internal Complaint Committee" (ICC) members within a period of 3 months of the incident or last of the incident(s).

- In case where woman is unable to make a complaint on the account of their physical or mental incapacity or death or otherwise, their legal heir or such other person may make a complaint. (refer sec.-9(2))
- The ICC shall send a copy of complaint to respondent within 7 working days (as specified in Rule-7(2)) & they shall submit the reply + supporting documents within 10 working days. (as per Rule-7(3))
- The ICC may, before initiating an inquiry and at the request of the aggrieved woman, take steps to settle the matter between both parties through conciliation, provided that no monetary settlement shall be made as a basis of conciliation. (as per sec.- 10)
- ICC shall proceed enquiry into the complaint on the failure of the conciliation between the parties
- ICC shall complete the inquiry based on principles of natural justice (refer rule-7(4)) within 90 days (refer sec.-11) & submit its recommendations & penalty to be imposed within 10 days from the date of the completion of inquiry to the employer. Further, employer shall take action as per ICC recommendations within 60 days of receipt of inquiry report. (refer sec.-13)

Penalty for non-compliance of Conciliation:

Where the aggrieved woman informs the ICC that any term or condition of the settlement arrived at under S-10(2) has not been complied by the respondent, the ICC shall –

- proceed to make an inquiry into the complaint; or
- ICC may forward the complaint regarding the non-compliance of the settlement to the police.

Penalty for Sexual Harassment:

ICC arrives at the conclusion that the allegation against the respondent has been proved. It shall recommend to the employer to take following actions as stipulated in *sec.-13*:

- a written apology/ warning/ reprimand or census/ withholding of promotion/ withholding of pay rise or increments/ termination the respondent from the service/ undergoing a counseling session/ carrying out community service
- Deduct from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the complainant or to their legal heirs. ICC shall determine compensation with regard to sec.-15:
 - the mental trauma, pain, suffering and emotional distress;
 - the loss in the career opportunity due to the incident;
 - medical expenses for physical or psychiatric treatment;
 - the income and financial status of the respondent;
 - Feasibility of such payment in lump sum or in installments.

Penalty for publication or making known contents of complaint and enquiry proceedings:

Where any person entrusted with the duty to handle or deal with:

- the contents of complaint;
- the identity and addresses of the aggrieved women, respondent and witnesses;
- any information relating to conciliation and enquiry proceeding;
- recommendations of the ICC; and
- the action taken by the employer

under the provisions of this Act, shall not be published, communicated or made know to the public, press and media in any manner (refer sec-16), contravenes the provisions of sec.-16, the employer shall recover a sum of Rs.5000/- from defaulter. (refer rule-12)

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Penalty for false or malicious complaint and false evidence by complainant or any other person; and Penalty for false evidence and forged or misleading documents by witness(s): sec.-14 & rule-10

Where the ICC arrives at a conclusion, after the enquiry 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; or
- any witness has given false evidence or produced any forged or misleading document

it may recommend to the employer to take any of the following action:

- a written apology, warning, reprimand or census, withholding of promotion, withholding of pay rise or increments, termination the respondent from the service, undergoing a counseling session and carrying out community service.

Penalty for non-compliance with provisions of Act:

Where the employer fails to –

- constitute an ICC under sec.-4(1);
- act upon recommendation of ICC (sec.-13); take action in case of false or malicious complaint and false evidence (sec.-14); include cases of sexual harassment in annual report (sec.-22);
- contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder,

they shall be punishable with fine which may extend to Rs.50,000/-. If any employer subsequently commit and is convicted of the same offence, they shall be liable for cancellation of his license or registration.