



Unlock Inclusion. Unleash Potential

Sexual Harassment Act Guide

What is sexual harassment?

According to Section 2 (n) of the Act, “sexual harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:

- Physical contact or 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 a sexual nature.

Further, Section 3 defines the following circumstances, among other circumstances, if it occurs or is present in relation to or is connected with any act or behaviour of sexual harassment may 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

Who is protected under the Act?

According to 2 (f), an “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 any other such name.”

Additionally, the definition of aggrieved woman is “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”.

What is a workplace?

According to Section 2 (o) of the Act, the definition of workplace includes:

- (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;
- (ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service;
- (iii) hospitals or nursing homes;
- (iv) any sports institute, stadium, sports complex or competition or games venue. whether residential or not used for training, sports or other activities relating thereto:
- (v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey:
 - i) a dwelling place or a house;

What is an IC?

The IC (Internal Committee), formerly known as the Internal Complaints Committee before an amendment introduced in 2016, is an internal redressal mechanism. Every organisation with more than 10 employees must have one. Complaints of workplace sexual harassment can be raised with the IC. The IC must investigate any and all complaints that are directed toward it.

According to Section 4, the Internal Committee shall consist of the following members to be nominated by the employer:

1. A Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:
 - Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section(/):
 - Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation.
2. 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
3. One member from amongst non-governmental organisations 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 Member so nominated shall be women.

Employer Responsibilities

According to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, every employer must:

EMPLOYER RESPONSIBILITIES

SECTION 19 OF THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

- 1) Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace
- 2) Display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting the Internal Committee under subsection (1) of section 4
- 3) organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the internal Committee in the manner as may be prescribed;
- 4) 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
- 5) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be
- 6) make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section (1) of section 9;
- 7) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force
- 8) cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place
- 9) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct
- 10) monitor the timely submission of report by the Internal Committee.