



MB Informatics Pvt Ltd

Policy against prevention of Sexual
Harassment at workplace

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Prevention of Sexual Harassment Policy at Workplace

Overview:

The purpose of this Policy is to protect all employees against sexual harassment in the workplace in India, and foster a safe environment where everyone can pursue personal and professional development

Recently Parliament has passed Sexual Harassment at Workplace - Prevention, Prohibition and Redressal Act, 2013 (the "Act") and the Sexual Harassment at Workplace - Prevention, Prohibition And Redressal Rules, 2013 (the "Rules"). The Act and the Rules provide protection against sexual harassment of women at workplace, and also provide for the Redressal of complaints of sexual harassment in the workplace and any matters connected therewith or incidental thereto.

This Policy is enacted in compliance with the terms of the Act and the Rules.

Policy

1. Scope

- i. This Policy applies to all persons, who are parties to a Complaint filed with the Internal Compliant Committee or Local Complaint Committee by an Aggrieved Woman alleging Sexual Harassment at the workplace. Such parties shall include the Aggrieved Woman, Respondent, and witnesses.
- ii. This Policy is designed as per the Act and Rules thereunder and it briefly list the essential ingredients of the same.

2. Definition

- i. Sexual Harassment includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) such as:
 1. Physical contact and advances; or
 2. A demand on request for sexual favours; or
 3. Making sexually coloured remarks; or
 4. Showing pornography or other offensive derogatory pictures, cartoons, representations, graphics, pamphlets or sayings; or
 5. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

3. Prevention of sexual harassment

- i. No women should be subjected to sexual harassment at any workplace
- ii. The following circumstances among other circumstances, if it occurs is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment

1. Implied or explicit promise of preferential treatment in her employment; or
 2. Implied or explicit threat of detrimental treatment in her employment; or
 3. Implied or explicit threat about her present or future employment status; or
 4. Interference with her work or creating an intimidating or offensive or hostile work environment for her; or
 5. Humiliating treatment likely to affect her health or safety
4. Internal Complaint Committee: The Sexual Harassment Act requires an employer to set up an 'Internal Complaints Committee' ("**ICC**") at each office or branch, of an organization employing at least 10 employees. The government is in turn required to set up a 'Local Complaints Committees' ("**LCC**") at the district level to investigate complaints regarding sexual harassment from establishments where the ICC has not been constituted on account of the establishment having less than 10 employees or if the complaint is against the employer. The Sexual Harassment Act also sets out the constitution of the committees, process to be followed for making a complaint and inquiring into the complaint in a time bound manner.

Requirements of ICC

1. Presiding officer who shall be a woman employed at a senior level at workplace from amongst the employees.
 - i. 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 (1):
 - ii. 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

At least half the total members of the Committee have to be women. The Presiding Officer and every member shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer

5. Interim Reliefs: The Sexual Harassment Act empowers the ICC and the LCC to recommend to the employer, at the request of the aggrieved employee, interim measures such as (i) transfer of the aggrieved woman or the respondent to any

other workplace; or (ii) granting leave to the aggrieved woman up to a period of 3 months in addition to her regular statutory/ contractual leave entitlement.

Procedure

The Act and Rules provides for the detailed procedure for filing of the Complaint and the way it needs to be dealt with. The salient features of the procedure are given below for ready reference.

1. Any Aggrieved Woman may make Complaint in writing to the ICC within 3 (three) months from date of incident and in case of a series of incidents, within a period of three months from the date of last incident. If the Aggrieved Woman can't file the complaint due to physical or mental incapacity or for any other reason, it can be filed, with her written consent, by other eligible persons including by any person who has knowledge of the incident.
2. Before initiating an inquiry and at the request of the Aggrieved Woman, ICC may take steps to settle the matter through conciliation provided no monetary settlement shall be made as a basis of conciliation.
3. In case the settlement is not arrived at/complied or no request for conciliation is made, ICC will conduct an inquiry into the Complaint and arrive at the conclusion as per the procedure laid down in the Act and the Rules. The inquiry has to be completed within 90 days
4. The inquiry report has to be submitted issued within 10 days from the date of completion of inquiry.
5. If the allegations are not proved, ICC shall recommend the same to the company. If allegations against Respondent are proved, ICC may recommend the following actions:
 - i. To take action treating acts of sexual harassment as misconduct; or
 - ii. To deduct from salary or wages such appropriate sums, and award such compensation as necessary in terms of the Act.
6. If ICC finds that the complaint made was false or malicious, it may recommend to MBI to take appropriate action against the woman in accordance with relevant policies or in such manner as may be prescribed.
7. Employer is required to act on the recommendations of the committee within 60 days of receipt of inquiry report
8. Any person aggrieved from the recommendations made by ICC or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such rules exist then within a period of ninety days of the recommendations.

Employer's Obligations

In addition to ensuring compliance with the other provisions stipulated, the Sexual Harassment Act casts certain obligations upon the employer to, inter alia,

1. provide a safe working environment
2. display conspicuously at the workplace, the penal consequences of indulging in acts that may constitute sexual harassment and the composition of the Internal Complaints Committee
3. organise workshops and awareness programmes at regular intervals for sensitizing employees on the issues and implications of workplace sexual harassment and organizing orientation programmes for members of the Internal Complaints Committee
4. treat sexual harassment as a misconduct under the service rules and initiate action for misconduct.

The employer is also required to monitor the timely submission of reports by the ICC.

If an employer fails to constitute an Internal Complaints Committee or does not comply with any provisions contained therein, the Sexual Harassment Act prescribes a monetary penalty of up to INR 50,000 (approx. US\$1,000). A repetition of the same offence could result in the punishment being doubled and / or de-registration of the entity or revocation of any statutory business licenses.

References

1. Sexual harassment at workplace Act, 2013 <https://wcd.nic.in/sites/default/files/Sexual-Harassment-at-Workplace-Act.pdf>
2. Sexual harassment at workplace rules, 2013 <https://wcd.nic.in/sites/default/files/Sexual-Harassment-at-Workplace-Rules.pdf>