

HC Policy	PROHIBITION OF SEXUAL HARRASSMENT
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Applicable to	HCIL, ZCL, GCL
Version	V1

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

Prevention of Sexual Harassment Act was passed by the Parliament and came into force on 23rd April 2013. It was enacted to ensure a safe working environment for women. It provides for protection to women at their workplace from any form of sexual harassment and for redressal of any complaints they may have launched. The Act was formed on the basis of the guidelines laid down by the Supreme Court in its landmark judgment, Vishakha v. State of Rajasthan.

Objective:

To educate employees how to prevent sexual harassment of women employees at workplace.

Scope:

The ambit of the Sexual Harassment Act is very wide and is applicable to the organized sector as well as the unorganized sector. In view of the wide definition of 'workplace', the statute, inter alia, applies to government bodies, private and public sector organizations, non-governmental organizations, organizations carrying on commercial, vocational, educational, entertainment, industrial, financial activities, hospitals and nursing homes, educational institutes, sports institutions and stadiums used for training individuals.

"Workplace" covers within its scope places visited by employees during the course of employment or for reasons arising out of employment-including transportation provided by the employer for the purpose of commuting to and from the place of employment.

The Act ensures that women are protected against sexual harassment at all work places, be it public or private, organized sector or even the unorganized sector, regardless of their age and status of employment. The act also covers students in schools and colleges, patients in hospital as well as a woman working in a dwelling place or a house.

1. Definition:

The definition of 'employee' under the Sexual Harassment Act is fairly wide and covers regular, temporary, ad hoc employees, individuals engaged on daily wage basis, either directly or through an agent, contract labour, co-workers, probationers, trainees, and apprentices, with or without the knowledge of the principal employer, whether for



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remuneration or not, working on a voluntary basis or otherwise, whether the terms of employment are express or implied.

'Sexual harassment' is defined as any advances to establish physical contact with a woman, a demand or request for sexual favours, making sexually coloured remarks, showing pornography or any other form of physical, verbal or non-verbal conduct of sexual nature.

The following circumstances amongst others constitute may also constitute as forms of sexual harassment- implied or explicit promise of preferential/detrimental treatment at the workplace, implied or explicit threat about her present or future employment status, interference with her work and/or creating an intimidating or offensive or hostile work environment for her, and humiliating treatment likely to affect her health or safety.

2. Internal Complaints Committee and Local Complaints Committee:

Under the Act, employers who employ 10 employees or more and local authorities will have to set up Internal Complaints Committee to investigate all complaints under this Act. Employers who fail to comply will be punished with a fine that may extend to Rs. 50,000. If, however, they still fail to form a Committee, they can be held liable for a greater fine. Further, in every district, a public official called the District Officer will constitute a committee known as the 'Local Complaints Committee' (LCC) to receive complaints against establishments where there is no Internal Complaints Committee or there being a complaint against the employer himself.

3. Constitution of the Internal Complaints Committee:

It will consist of the following members (to be nominated by the employer):

- 3.1 A Presiding Officer who shall be a woman employed at a senior level at the workplace, unless there is no senior women employee at the office or any other administrative unit. In that case the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organization.
- 3.2 At least 2 members from amongst the employees either committed to cause of women or who have experience in social work or have legal knowledge.
- 3.3 One member from a Non-Governmental organization or association committed to the cause of women and familiar with the issues relating to sexual harassment. This member shall not be part of the employer's enterprise. Provided that one-half of the total members must be women.

The Presiding Officer and Members of the Internal Committee hold office for 3 years from the date of the nomination as specified by the employer. The member from the NGO or association shall be paid such fees or allowance, by the employer, as may be prescribed. The details of the complaints are confidential and if any member of the Committee, be it the Presiding Officer, discloses any details of the same to the media or press or makes it public in any way, will be liable for immediate disqualification from the Committee.



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Further, if any member has been convicted or accused of any offence under any law, has been found guilty in any disciplinary proceeding/has a disciplinary proceeding pending against him as per any law or has abused his position in any manner, he/she shall be removed from the Committee.

Every complaint must be given in writing to the Internal Complaint Committee within a period of 3 months, from the date of the incident. An extension of a period 3 months can be granted to the woman if she, due to certain circumstances, is unable to file the complaint or is prevented from doing so. If however, she is unable to lodge the complaint due to physical or mental incapacity or death; her legal heirs may do so.

4. Preparation of an Annual Report by the employer:

The act casts a duty on employers to include information pertaining to the number of cases filed and disposed of by them in their Annual Report. Organizations which are not under a requirement to prepare an Annual Report have to furnish this information directly to the Local Complaints Committee, which will prepare an Annual Report of its own to be forwarded to the appropriate government.

5. Duties of employer:

In addition to above said obligations, the Sexual Harassment Act casts certain duties upon the employer such as to:

5.1 Provide a safe working environment.

5.2 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.

5.3 Organize workshops and awareness programs at regular intervals for sensitizing employees on the issues and implications of workplace sexual harassment and organizing orientation programs for members of the Internal Complaints Committee.

5.4 Treat sexual harassment as misconduct under the service rules and initiate action for misconduct.

5.5 Provided assistance to the woman if she chooses to file a complaint in relation to the offence, under Indian Penal Code.

6. Procedure followed by the complaint committee to resolve a complaint:

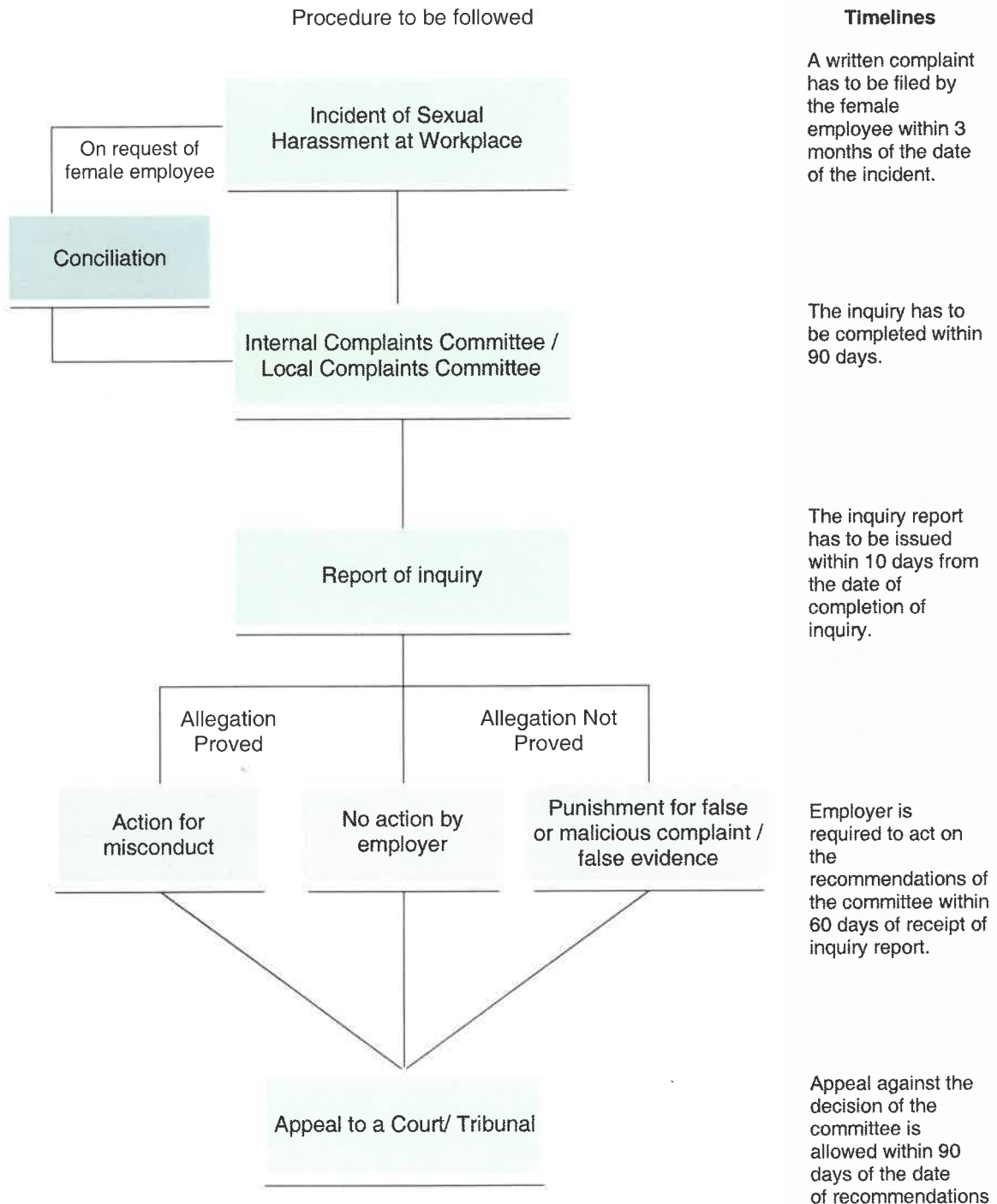
Process for Complaint and Inquiry: Please refer to the following flowchart which provides, in brief, the process to be followed by the aggrieved employee to make the complaint and by the employer to inquire into the complaint. The law allows female employees to request for conciliation in order to settle the matter although a monetary settlement should not be made as a basis of conciliation.


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Below is a flow chart showing the process of resolution of complaint

India: Sexual Harassment of Women at Workplace(Prevention, Prohibition and Redressal) Act, 2013



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7. Following are the guidelines that need to be followed by the members of the ICC:

7.1 When the ICC receives a complaint, it must seek to resolve the issue by way of conciliation if the complainant so wishes. However, no monetary settlement can be the basis of the conciliation. If there is a settlement, a report must be sent by Committee, to the employer to take action in accordance with the recommendations of the Committee.

7.2 If however no conciliation can be met with, the ICC must start an inquiry into the complaint. All inquiries must be completed within 90 days. However, in case of a domestic worker, the LCC must transfer the complaint to the police, within 7 days of the complaint, for registering the case under section 509, or any other relevant section, of the Indian Penal Code, if according to them a prima facie case exists.

7.3 For the purposes of making an inquiry, the ICC shall has similar powers as a civil court - it can summon and enforce attendance of any person, examine him on oath, order production of documents, etc.

7.4 During the pendency of the inquiry interim relief may be granted to the aggrieved woman. The ICC may recommend the employer to:

- Transfer the aggrieved woman or the respondent to any other workplace.
- Grant leave to the aggrieved woman up to a period of 3 months.
- Grant such other relief as may be prescribed.

7.5 On completion of the inquiry

The committee must submit its recommendations to the employer, within 10 days. The employer must act on those recommendations within 60 days in accordance with the conclusions of the inquiry.

8. Actions that can be taken by the employer after inquiry:

If the respondent is found not guilty, the inquiry will end. If, however, his guilt is proven, then the employer must:

8.1 Deduct from the salary or wages of the person who has engaged in sexual harassment, an appropriate sum which can be paid to the aggrieved woman (or to her legal heirs).

8.2 Take action for sexual harassment as misconduct in accordance with the service rules applicable to the respondent (in case of a government agency). In case of private organizations, the employer can take such actions as may be prescribed - currently, no rules have been framed explaining the actions that the employer can take.



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9. False and malicious complaints:

What can be done if a woman has filed a false complaint of sexual harassment against a colleague, a senior or a junior employee? If the ICC or LCC is of the view that a malicious or false complaint has been made, it may recommend that a penalty be levied on the complainant in accordance with applicable service rules. However, an

inquiry must be made in order to establish malicious intent. Also, mere inability to substantiate a complaint will not attract action under this provision.

10. Consequences of non-compliance with the Act:

Employers who fail to comply will be punished with a fine that may extend to Rs. 50,000. If any employer who has been convicted earlier of an offence subsequently commits a repeat offence he will be liable for twice the punishment, which may have been imposed on a first conviction. Further, his license for carrying on business may even be cancelled.

11. Amendment to the Indian penal code:

As a result of the growing importance of the issues relating to sexual harassment and protection of female employees in India, a new section 3 was added to the Indian Penal Code, 1860 through the Criminal Law (Amendment) Act, 2013, which enlists the acts which constitute the offence of sexual harassment and further envisages penalty / punishment for such acts. A man committing an offence under this section is punishable with imprisonment, the term of which may range between 1 - 3 years or with fine or both. Since the amendment criminalizes all acts of sexual harassment, employers shall be required to report any offences of sexual harassment to the appropriate authorities.

Check List for Sexual Harassment of Women at Workplace Act, 2013

Section	Provisions
4(1)	Every employer with a business or enterprise having more than 10 workers/employees will have to constitute a committee known as 'Internal Complaints Committee'(ICC) to look into all complaints of sexual harassment at the workplace.
4(1)	Every employer, with more than 10 employees, shall constitute an 'Internal Complaints Committee' (ICC) at the workplace and wherein the offices or administrative units of workplace are located at different places, he will, constitute a committee in all such offices and administrative units


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4(2)	<p>'Internal Complaints Committee' will consist of the following members (to be nominated by the employer):</p> <ul style="list-style-type: none"> • A Presiding Officer who shall be a woman employed at a senior level at the workplace. If there is no senior women employee at the office or any other administrative unit the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organization. • At least 2 members from amongst the employees either committed to cause of women or who have experience in social work or have legal knowledge. • One member from a Non-Governmental organization or association committed to the cause of women and familiar with the issues relating to sexual harassment. This member shall not be part of the employer's enterprise. Provided that one-half of the total members must be women.
4(3),(4) &(5)	<p>The Presiding Officer and Members of the Internal Committee shall hold office for 3 years from the date of the nomination as specified by the employer.</p> <p>The member from the NGO or association shall be paid such fees or allowance, by the employer, as may be prescribed.</p> <p>The details of the complaints are confidential and if any member of the Committee, be it the Presiding Officer, discloses any details of the same to the media or press or makes it public in any way, will be liable for immediate disqualification from the Committee.</p> <p>Further, if any member has been convicted or accused of any offence under any law, has been found guilty in any disciplinary proceeding/has a disciplinary proceeding pending against him as per any law or has abused his position in any manner, he/she shall be removed from the Committee.</p>
9	<p>Every complaint must be given in writing to the Internal Complaint Committee within a period of 3 months, from the date of the incident. An extension of a period 3 months can be granted to the woman if she, due to certain circumstances, is unable to file the complaint or is prevented from doing so. If however, she is unable to lodge the complaint due to physical or mental incapacity or death; her legal heirs may do so.</p>
10	<p>The following are the guidelines that need to be followed by the members of the Internal Complaints Committee (ICC)</p> <ol style="list-style-type: none"> 1. When the ICC receives a complaint, it must seek to resolve the issue by way of conciliation if the complainant so wishes. However, no monetary settlement can be the basis of the conciliation 2. If however no conciliation can be met with, the ICC must start an inquiry into the complaint. All inquiries must be completed within 90 days. 3. For the purposes of making an inquiry, the ICC shall has similar powers as a civil court - it can summon and enforce attendance of any person, examine him on oath, order production of documents, etc.


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12	<p>During the pendency of the inquiry interim relief may be granted to the aggrieved woman.</p> <ul style="list-style-type: none"> • The ICC may recommend the employer to Transfer the aggrieved woman or the respondent to any other workplace. • Grant leave to the aggrieved woman up to a period of 3 months. • Grant such other relief as may be prescribed
13	<p>On completion of the inquiry, the Internal Complaints committee must submit its recommendations to the employer, within 10 days. The employer must act on those recommendations within 60 days in accordance with the conclusions of the inquiry.</p>
19	<p>Duties of the employer</p> <ol style="list-style-type: none"> a) Provide a safe working environment at workplace b) Display at any conspicuous place in the workplace ,the penal consequences of sexual harassment and the order constituting the Internal Complaint Committee c) Organize workshops and awareness programs at regular intervals for sensitizing the employees with the provisions of the Act and orientation programs for the members of the Internal Complaint Committee d) Provide necessary facilities to Internal Complaints Committee for dealing with the complaints e) Assist in securing the attendance of respondent and witnesses before the Internal Complaints Committee (ICC). f) Make available such information to Internal Complaints Committee as it may require with regard to the complaint made g) Provide assistance to the woman if she chooses to file a complaint in relation to the complaint under Indian Penal Code h) Cause to initiate action under Indian Penal Code against the accused or if the aggrieved woman so desires where the accused is not an employee in the workplace where the sexual harassment took place. i) Treat sexual harassment as misconduct under the service rules and initiate action for such misconduct <p>Monitor the timely submission of reports by Internal Complaints Committee</p>
14	<p>If the Internal Complaints Committee (ICC) is of the view that a malicious or false complaint has been made, it may recommend that a penalty be levied on the complainant in accordance with applicable service rules. However, an inquiry must be made in order to establish malicious intent. Mere inability to substantiate a complaint will not attract action under this provision.</p>



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22	Employer has to provide information pertaining to the number of cases filed and disposed of by them in their Annual Report.
	Penalty
26	Employers who fail to comply with the provisions of the Act will be punished with a fine that may extend to Rs. 50,000.If any employer who has been convicted earlier of an offence subsequently commits a repeat offence will be liable for twice the punishment, which may have been imposed on a first conviction.

12. ICC Committee:

ICC is formed to address, investigate and redress any incident reported towards Sexual Harassment.

Chairperson for HC India:

Poonam Sharma (9810044439)



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External Member at HCIL Plants:
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<p>Gurugram Office</p> <p>Amit Angra (9873951700) K K Acharya (9650078555) Koel Mallick Singhal (9811230528) Manju Suri (9971174096)</p>	<p>ICC SU MP Office</p> <p>Pawan Duggal (9560512211) Divya Aneja (9425010579) Mona Khurana (9871844711) Koel Mallick Singhal (9811230528) Manju Suri (9971174096)</p>
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<p>ICC Jhansi Plant</p> <p>GNB Rao (9920999383) Vishwakant Mishra (9071042000) Koel Mallick Singhal (9811230528) Somnath Mukherjee (9999000859)</p>	<p>ICC SU (C&E) UP Office</p> <p>Vishvesh Trivedi (8417000136) Rajesh Bhardwaj (9926609410) Manisha Srivastava (8934833333) Koel Mallick Singhal (9811230528) Manju Suri (9971174096)</p>
<p>ICC Cochin Plant</p> <p>Vinod PR Pratap N (9895763204) Koel Mallick Singhal (9811230528) Manju Suri (9971174096)</p>	<p>ICC SU (W&N) UP Office</p> <p>Rajesh Bhardwaj (9926609410) Vishvesh Trivedi (8417000136) Mona Khurana (9871844711) Koel Mallick Singhal (9811230528) Manju Suri (9971174096)</p>
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External Member at ZCL Plants:
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ICC Yerraguntla Plant Dr. Y. Srivani (9000151749) Mary Carolin (9900318155) Sowmya H (9901241314) Y S Rao (9949072634)	ICC Solapur Grinding Unit and Pune RMO Sowbhagya Appaiah (9986029908) Mary Carolin (9900318155) Padmasingh Patil (7774073581) P Sarath Kumar (9844073704)
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