

टोपीवाला राष्ट्रीय वैद्यकीय महाविद्यालय व
बा. य. ल. नायर धर्मा. रुग्णालय, मुंबई

अंतर्गत तक्रार समिती (PoSH)

Internal Complaint Committee

[Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013]

संपर्क: 022-23027631

icc.tnmcnair@gmail.com

Table of Contents

1. Members	2
2. SOPs	3
3. BMC PSH Policies	4
4. Act 2013	20

सदस्य

अ.क्र.	नाव	समितीवरील पद	भेटण्याचे ठिकाण
१	डॉ. जान्हवी केदारे	अध्यक्षा	मानसोपचार विभाग OPD बिल्डिंग (13)
२	डॉ. संजय स्वामी	सचिव	जीवरसायनशास्त्र कॉलेज बिल्डिंग ४ था माळा
३	डॉ. सोनाली पांडे	सहसचिव	शरीरक्रियाशास्त्र कॉलेज बिल्डिंग ४ था माळा
४	डॉ. गायत्री हट्टंगडी	सहसचिव	ऑडिओ स्पीच थेरपी कॉलेज बिल्डिंग १ ला माळा
५			
६	श्रीमती रूनेहा पेडणेकर	सदस्य	नर्सिंग कॉलेज
७	श्रीमती रेणुका कुट्टी	सदस्य	प्रशासकीय कार्यालय ग्राउंड फ्लोर
८	कु. श्वेता चंदनशीवे	सदस्य	अधिष्ठाता कार्यालय ग्राउंड फ्लोर
९	एसपीजीआरसी नियुक्त	अशासकीय सदस्या	एनजीओ

संपर्क: 022-23027631

icc.tnmcnair@gmail.com

SOPs

A complaint lodged with the ICC is processed when it pertains to incidents of sexual harassment of women in the workplace and falls within the scope of The Sexual Harassment of Women at Workplace regulations. (Prevention, Prohibition and Redressal) Act, 2013.



Action should be initiated within 7 days of receipt of complaint



Complainant is called to present her case in front of committee



A letter is sent to respondent to give written clarification within 7 days



After receiving clarification, A respondent is instructed to appear before the committee



Depending on the severity of the case, if deemed necessary, interim relief can be provided by either transferring the respondent or placing them on leave until the completion of the investigation.



Both parties are asked to appear before committee with/without witnesses and documents if any in support.



The report is sent to SPGRC (Local Complaint Committee at MCGM level)



SPGRC, can approve the recommendations of ICC or recalls enquiry if needed



The entire process should be completed within 90 days.



SPGRC forwards its recommendations to the Dean/Higher authorities of MCGM for implementation, and the administration is obligated to carry out directives from SPGRC.

All documents related to enquiry procedure such as statements of witnesses etc. are confidential and cannot be revealed even to administration or head of the institute.

Contact

Details are mentioned on first page

बृहन्मुंबई महानगरपालिका

Policy for Prevention of Sexual Harassment at the Workplace

MUNICIPAL CORPORATION OF GREATER MUMBAI



Based On

THE SEXUAL HARASSMENT OF WOMEN
AT WORKPLACE (PREVENTION PROHIBITION
AND RESRESSAL) ACT, 2013*
(14 OF 2013)



I PURPOSE

i) **History:** The Supreme Court of India passed a landmark judgment on **13th August, 1997**, recognizing sexual harassment at the workplace as systemic and gender-based discrimination, violating fundamental rights of Gender Equality and the right to Life and Liberty. The **Supreme Court** in its verdict passed **Mandatory Guidelines** for prevention and resolution of sexual harassment incidences at the workplace, putting the responsibility on the employers to provide systems for prevention and redress on the issue. The aim was to focus attention towards finding suitable methods for realization of the true concept of gender equality and to prevent sexual harassment of working women in all work places.

These guidelines were legally binding and enforceable. Thus, all government and private sectors organisations, hospitals, universities and unorganised sectors came under the purview of these guidelines.

To prevent and deter the commission of acts of sexual harassment at the workplace and to provide procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all the steps required, **The Municipal Corporation of Greater Mumbai took very progressive step and got the MCGM policy made in 2004.** The purpose of this policy was to **facilitate the implementation of the Supreme Court guidelines** on sexual harassment, address formal and informal resolution of such complaints, and ensure that the institution takes preventive steps and create women friendly work places/ service places. The policy emphasized the importance of treating all complaints promptly and seriously, in confidence and with sympathy.

ii) **The Present Revised Policy**, i.e. the Policy on Prevention of Sexual Harassment at MCGM ("**Policy**") takes complete cognizance of the recently laid down statute the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("the Act")** and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Rules, 2013 ("**the Rules**") laid down thereunder. (will be called the LAW and RULES)

The Municipal Corporation of Greater Mumbai (hereafter referred as **MCGM**) is committed to a workplace free of sexual harassment for women and girls and has adopted the following policy for prevention of sexual harassment at workplace.

MCGM is committed to **Zero Tolerance** to sexual harassment and hostile workplace ensuring that every employee/patient/ women relatives of the patients/service receivers/ student have the "right to work and be treated in dignity," and a "right to a safe working/educational/ service environment for women and children"

II. COMMENCEMENT DATE:

The policy becomes effective as of---

This policy extends to all departments/offices/wards/work relations of MCGM. The provisions of the policy will apply to all employees by whatever name called, students,

patients, and third parties to the extent specified in the policy, whether full time, part-time, consultant, contract, or casual, may be every person in the context of the work space.

III. POLICY SCOPE:

All allegations of sexual harassment of women / children occurring in relation to employment and/or enrollment/admittance at the MCGM or is committed by or to any person affiliated with MCGM including but not limited to all students, patients, employees, contract staff or representatives of the administration. It does not matter whether the sexual harassment is alleged to have taken place within or outside the establishment premises or at a notional extended location of the workplace so long as it has bearing on the employment/study/treatment/consultation/ services etc at MCGM. Acts of sexual harassment occurring within the premises or otherwise, in person or virtual or with the help of electronic media are relevant.

Any conduct as described in this policy committed by a third party (As someone not employed by BMC in any form i.e. temporary/ contract/ honorary worker or some other man, relative of some patient /doctor/other staff) on the institutional premises in relation to a student/employee/patient/ Patients's relatives or vice-versa will be subject to action. The management will put up posters, distribute leaflets, use other forms of media to make known to all persons entering the premises or in any way having an employment relationship with MCGM that there is **Zero Tolerance** towards this behavior. All employees/patients/ women relatives of the patients /students should report any incident of sexual harassment to people designated in this policy that is Internal Committee (Local). This policy imposes a duty on these persons to take appropriate speedy action in accordance with its provisions.

IV. DEFINITIONS:

:

(a) **"Aggrieved woman "means---**

- (i) In relation to a workplace, a woman, of any age whether employed by MCGM or not, or receiving services of MCGM, who alleges to have been subjected to any act of sexual harassment by the respondent working for MCGM (On regular bases, part time, on contract)
- (ii) All women working or visiting any workplace/ service places whether in the capacity of regular, temporary, ad hoc, or daily wages basis is protected under the Act.
- (iii) It includes all women whether engaged directly or through an agent including a contractor, with or without the knowledge of the principal employer. They may be working for remuneration, on a voluntary basis or otherwise. Their terms of employment can be express or implied.
- (iv) Further, she could be a co-worker, a contract worker, probationer, trainee, apprentice, or called by any other such name.

- (v) If the aggrieved person is Minor, patient/ relative of the patient /student in MCGM service places or MCGM schools or any other school out sourced by MCGM/ or community, the process in this case will be dealt **in an annexure considering POCSO act.**

(b) “Employer: Means – MCGM directly or through contract

(c) “Employee:”

Any person on staff of MCGM whether the person is drawing a salary, honorarium, voluntary, temporary, teaching, non-teaching, part-time, consultant, employee by whatever name called and would include employees hired on a casual or project basis or employed through a contractor.

Students full time, part time, any person using institutional facilities/services run by MCGM or enrolled for undergraduate, graduate, post-graduate studies, research student, repeater, interns, or student by whatever name called.

(d) Internal Committees

“Internal Committee:” constituted in MCGM as Main Internal Committee (MIC), and Local Internal Committee (LIC) as per the LAW, where the aggrieved woman could complain against sexual Harassment (Details of composition of and working of the MIC and LIC is given Latter)

(e)“Work Place”:

Includes all offices, administrative units or Departments, Hospitals also premises of MCGM or the notional extensions of the same.

(f)“Respondent”

The person against whom the complaint of Sexual Harassment has been made by the Aggrieved Woman

(g)“Sexual Harassment”

It includes any one or more of the following unwelcome acts or behaviour (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 SMS, WhatsApp messages, pictures
- v. any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

(h)“Hostile Work Environment:”

- i. There is submission to unwelcome sexual advances, requests for sexual favours, verbal or physical conduct of a sexual nature are made either explicitly or implicitly, a term or condition of employment, participation or evaluation of a person’s work/education/treatment.

- ii. A demand for sexual favours is made as a condition of getting or keeping a job benefit/treatment/marks/other benefit.
- iii. Co-worker/supervisor/any other person or persons covered by this policy engages in unwelcome and inappropriate behavior sexual in nature of the type described above, rendering the workplace atmosphere intimidating, hostile, or offensive.
- iv. Any form of sexual assault where a person uses the body or any part of it or any object as an extension of the body in relation to another person without the latter's consent or against the person's will.
- v. Loaded comments, remarks or jokes, letters, phone calls , e-mail, gestures, showing or display of pornography, lurid stares, physical contact or molestation, sounds or display of a derogatory nature.

“SEXUAL HARASSMENT” SHALL INCLUDE (BUT NOT BE CONFINED TO) ALL THE ABOVE

Illustrations :

- i. Staring at someone's body rather than looking at her in the eyes while talking.
- ii. Passing remarks about someone's physical appearance (either the person being spoken to or a third person's) during a conversation.
- iii. Staff touching/brushing against/massaging private parts of patients while shifting, moving or while being involved in their treatment.
- iv. Standing behind a seated woman, co-worker and touching.
- v. Holding a handshake little longer than needed.
- vi. Brushing against a woman co-worker (while walking down the stairs, in a lift etc.)
- vii. Placing comments with sexual overtones on worktables, display boards etc.
- viii. Patients/their visitors making sexually colored remarks/innuendos about female staff, such as pointing out to female staff, sniggering, and asking each other “Whom do you want”?
- ix. Scribbling graffiti and comments with sexual overtones (on the walls of staircases, lifts, toilets etc.
- x. Requesting for accompaniment (dinners, movies, lifts).
- xi. Faculty using sexually explicit language/or other non-verbal communication.
- xii. To explain medical procedures, such as telling students “Don't you know how to hold a ----- while explaining about the ----- procedure/Sexually suggestive language used during Viva Voce.
- xiii. Administrative staff making lewd jokes in the presence of female students/ staff with the intention to harass and intimidate.
- xiv. showing or sending /video clips/pictures / text messages through mobile or computers.
- xv. Touching inappropriately in the pretext of helping, doing dressings, giving injections, taking ECG .

V. COMPOSITION OF MIC AND LIC OF MCGM (Internal Committees as per the LAW):

MIC is a Main Internal Committee having 12 to 14 members from various offices and departments 50% or more being women. Presiding Officer or Chairperson of MIC shall be a woman employed at a senior level preferably DMC level within MCGM. This committee has been appointed by the administration of the MCGM / Presiding officer of MIC.

The other members of MIC will be men and women from different departments. Members from the enquiry and legal departments of MCGM shall be mandatory. A Woman Member Secretary shall be appointed by the Chairperson of MIC. Member Secretary will have experience of working on MIC/LIC, has understanding of gender issues and willingness to work for the implementation of the LAW.

NGO member will be appointed on MIC by Chairperson of MIC, the one who has ten or more years of experience on handling cases under the LAW and is well versed with MCGM system.

All MIC members shall undergo Capacity building training at Savitribai Phule Gender Resource Center of MCGM (SPGRC) by experts in the field, MIC will be having its administrative office located at Savitribai Phule Gender Resource Centre.

Constitution of LIC - LIC shall be constituted at all administrative units or offices by concerned administration as per law whose Presiding officer or the chairperson will be one of the senior most/ senior woman in that workplace and LIC will have 5 to 12 members, 50% or more members are women. The list of LIC members will be informed to the MIC by the administration.

NGO member as per the LAW who is mandatory on the LIC for conducting enquiry, will be provided by MIC while there is a case, NGO person will be preferably a woman. She will guide LIC/MIC, help and see that the enquiry is fair and as per the LAW

In case any office or administrative unit do not have a senior level woman employee, the Chair Person (Presiding Officer as per LAW) shall be nominated from any other LIC of MCGM by MIC

The Presiding Officer and every Member of the MIC/ LIC shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the institution/department.

The same members may get **reappointed** if required by the administration/ Chair Person of LIC/MIC. If NGO member has objection to the reappointment of any of the members can be addressed by MIC. LIC will inform the new list of members to MIC. All members shall take training or re-training as the case may be.

LIC will work in close coordination with MIC.

VI . RESPONSIBILITIES OF MIC AND LIC

MIC - MIC will support /guide/monitor all Local Internal Committees (LICs) of all the administrative units of MCGM.

MIC will be responsible for conducting the regular capacity building trainings of all the LIC members in MCGM and the selected NGO Members about the concept of Gender, the law, the procedures of enquiries, available relevant documentation/ circulars of MCGM. MIC shall appoint case to case NGO members in respective LICs to avoid delay in the process of the enquiry. MIC may have to conduct enquiry in case the LIC presiding is not confident /if the complainant wishes so.

LIC – Will make the presence felt in the place of work / service by putting up Committee board at prominent places. LIC to concentrate on preventive activity. To identify the unsafe places in the institute/work place /hospital/service place at different hours of working times by safety audits and report to the administration for the corrections. Conduct regular trainings of all the staff members about the LIC and LAW. Get all the members trained. If there is a complaint and the complainant is wanting the complete enquiry the procedure given is to be followed by LIC.

The disqualification of any MIC /LIC members - will be as provided that the Presiding Officer or any Member of the Internal Committee shall be removed from the Committee, if he/she – (a) contravenes the provisions of LAW or (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/her; or (c) he/she has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him/her; or (d) has so abused his/her position as to render his/her continuance in office prejudicial to the public interest, and the vacancy so created or any casual vacancy shall be filled by fresh nomination .

Resignation: A member of LIC/MIC can resign by tendering her/his resignation along with reasons to the Chairperson. And such a person shall be deemed to have vacated the position as soon as the chairperson on discussion with the committee members has accepted the resignation.

The NGO member is to be paid such fees or allowances for holding proceedings of the Committee and actual travel, for each visit as per the LAW. Fees paid in such way will be revised time to time by MCGM.

Quorum: Meeting of the Main Internal Committee shall be once a month to discuss

- i. Fifty percent membership constitutes a quorum; chairperson, one male member and NGO member is mandatory.

If the quorum is not present at any meeting it shall be adjourned for not more than seven working days and if at the subsequent meeting a quorum is still not present, the meeting shall proceed with those who are present and the proceedings of such a meeting will not be challenged on the ground of absence of quorum.

- ii. LIC Members must meet at least once a month to review the safety situations of their institutions for women at any hour of Day and Night, specially in case of Hospitals or staff on special duties. Monthly report about the awareness activities is to be reported to MIC. and if any case is of sexual harassment is reported, must inform MIC, MIC will suggest the NGO, case is investigated, reported to MIC.
- iii. If any of the committee members have got transferred, retired or given resignation, new member could be recruited by the administration and inform the MIC, MIC will conduct the two days training of the LIC members. (Details procedure given in VI)

VII. BRIEF SUMMARY OF THE GRIEVANCE PROCEDURE OF THE COMPLAINT

- (A) Complaint of sexual harassment** (1) Any aggrieved woman may make in writing, a complaint of sexual harassment at workplace to LIC/MIC within a period of three months from the date of incident and in case of series of incidents, within a period of three months from the date of last incident as per the LAW

Provided that where such complaint cannot be made in writing, the Presiding Officer (Chairperson) or any Member of the LIC/MIC as the case may be shall render all reasonable assistance to the woman for making the complaint in writing as per LAW

Provided further that the LIC/MIC may for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period as per LAW.

(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 as per the LAW.

(B) Conciliation.

(1) LIC/MIC may, before initiating an inquiry as per LAW and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation.

Provided that no monetary settlement, no coercion from the administration/respondent/LIC shall be made as a basis of conciliation (ensure there has been no coercion or pressure involved)

(2) Where a settlement has been arrived, LIC/MIC shall record the settlement so arrived and forward the same to MIC as recommendation.

(3) Where a settlement has been arrived at, no further inquiry shall be conducted by LIC/MIC unless revoked by the complainant.

(4) The MIC shall provide the copies of the settlement as recorded to the aggrieved woman / respondent / the administration/ LIC

(C) Inquiry into complaint. ---- (1) As per LAW LIC/MIC, shall, 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.

Provided that where the aggrieved woman informs the Internal Committee that any term or condition of the settlement arrived in conciliation has not been complied with by the respondent, LIC/MIC shall proceed to make an inquiry into the complaint.

The inquiry under LAW shall be completed within a period of ninety days.

(D) Enquiry: For the purpose of making an inquiry LIC/MIC shall have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely: ---

(a) summoning and enforcing the attendance of any person and examining him/her on oath;

(b) requiring the discovery and production of documents; and

The LIC can launch a full inquiry in coordination with MIC. LIC to follow the guidelines given in print by MIC for enquiry to be as per the procedure of LAW.

(i) In a case while conducting enquiry the LIC feels that the enquiry can't be conducted free and fair in the particular work place, with the permission of the NGO member and in the consensus with MIC, the enquiry can be conducted in nearby work place of MCGM with concerned LIC or at SPGRC

(ii) MIC/LIC is not a criminal court, and therefore cannot function like one by conducting a trial. In absence of evidences and witnesses MIC/LIC will follow principle of preponderance of the probability.

(iii) Confidentiality: The entire proceedings of the LIC/MIC shall remain confidential. The complainant's /Respondent's/witnesses' identity shall remain confidential at all times, reports related to proceedings of MIC/LIC are confidential documents and are not for public circulation.

(E) Action during pendency of inquiry. -- (1) During the pendency of an inquiry, on a written request made by the aggrieved woman, MIC may recommend to the administration to-

(a) transfer the aggrieved if she so wishes or the respondent to any other workplace
or

(b) grant leave to the aggrieved woman up to a period of three months; The leave granted to the aggrieved woman shall be in addition to the leave she would be otherwise entitled.

or

(c) grant such other relief to the aggrieved woman as per LAW.

On the recommendation of MIC, the Administration shall implement the recommendation and send the report of such implementation to the MIC within sixty days.

(F) Inquiry Report (1) On completion of an inquiry under this LAW, the LIC will send report in writing with due signatures to MIC. The LIC shall recommend appropriate action and send the report to the MIC.

LIC will present the case before MIC in the PSH meeting, shall present its findings and recommendations discussed. This enquiry procedure /documents/ recommendations will be discussed in the MIC monthly meeting at SPGRC. Concerned LIC Chairperson/ committee member / NGO member will present the case to MIC.

(2) Where the MIC arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the administration,

(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent recommended by MIC

(ii) The recommendations sent by MIC to administration are mandatory for implementations within sixty days of its receipt by him.

(iii) After the implementation of the recommendations the administration shall report back to the MIC. The Report is sent in writing by the Administration to the MIC of MCGM

- (iv) Malicious or False Complaints If the Complaints Committee is of the opinion based on the substantiated facts that the complaint of sexual harassment was made falsely and with malicious intent then MIC may recommend to the administrator to take action against the complainant who has made the complaint in accordance with the provisions of the service rules. Same action will be taken against the witness who has given false evidence or produced any forged or misleading documents during the enquiry.
- (v) Copies of findings and recommendations shall be made available to the complainant and the respondent & LIC
- (vi) All LICs must follow the MCGM Guidebook.
- (vii) All decisions by the Main Internal Committee are final and binding to the administration.

(3) Where the LIC/MIC arrives at the conclusion that the allegation against the respondent could not be proved, it shall recommend to the administration that no action is required to be taken in the matter. (LIC/MIC not been able to prove, does not mean it is a false complaint as per LAW)

VIII. TRAINING PROGRAMS/AWARENESS

- NGOs will help to establish training programs by holding training sessions, monitoring, crisis intervention, preparation and decimation of advocacy material. Thereafter it is the responsibility of the LIC along with the support of the administration to organize refresher-training courses and take all steps necessary for effective monitoring and implementation of this policy.
- There must be regular orientation sessions for new staff, students, patients etc by LIC. in order to create awareness of the policy and educate on sexual harassment.
- The names/addresses along with office contact nos. /extensions of the LIC Members will be prominently displayed on notice boards. (Marathi + English and any other language used by staff members).
- Flyers, postings, emails, media must be used by management to create proper awareness of the policy.
- Important factors that must be stressed in training the Complaints Committee as reiterated in the MCGM Guidebook:
 - **Subjectivity:** A sexual act when unwelcome is sexual harassment; the unwelcome is the women's subjective reality. The Complaints Committee's first job is to believe in this reality (unless something on record completely negates her complaint). The presumption should be in favour of the woman who complains of Sexual Harassment. It is important to remember that "proof" in the typical sense of the word should not be insisted upon. Delay on her part in complaint should not

be a reason to disbelieve her. There can be a long-time interval between the harassment and the actual complaint.

- **Empathy:** It is critical that the Complaints Committee empathizes with the complainant and does not judge her by their moral standards. As per the LAW, the LIC believes in the woman and starts the procedure, as the complainant has a career and personal life at stake.
- Listening to the most desired outcome sought by the complainant often will provide a reasonable resolution to the problem.
- Complainant 's past sexual history/personal life will not be probed into or enquired about during proceedings before any Committee.
- Consider the peculiar nature of the prohibited activity that is physically, psychologically, and emotionally impacting. Account for the various myths and facts in relation to sexual harassment so as to give a well-thought out resolution.
- Recognition that such behavior is unwelcome, that it is personally offensive and debilitates morale, affects the dignity of a person and affects and interferes with study, treatment, and work. That sexual harassment usually involves the use and abuse of power and desire to control. The entire complaints procedure both formal and informal must be sensitive to the social and cultural context of the complainant. It is important to remember that sexual harassment is generally an expression of power relations, most often against women by men. It is also a reflection of their relative positions in the hierarchy of the workplace and the inequalities of opportunity in the job market. The main reference point for the Complaints Committee must therefore be the word of the harassed person, i.e., the complainant.

IX. RIGHTS OF COMPLAINANT, RESPONDENT AND WITNESSES

Rights of Complainant:

A. Addressing the Respondent

- If complainant feels comfortable, she may speak directly to the person responsible for the alleged harassment. This may be sufficient to stop the unwanted conduct.

B. Recording the Harassment

- Documenting conversations with the harasser as well as incidents of harassment in a journal/file/diary is permitted. Complainant should enter dates, time, frequency, etc. Collect material given received, posted, emailed. Record timings of phone calls made and anything else that may constitute harassment.

C. Reporting the Harassment

- Make an informal or formal complaint to a member of the in-house LIC
- If the harasser holds a position higher than the Chairwoman of the LIC the complainant may report directly to the MIC

D. Investigation

- If a full investigation is necessary the complainant shall have the right to lead evidence and the right to cross-examine witnesses presented by the respondent.
- The complainant can take a co-worker, friend, and any other person with her during the interviewing process or for any other support during the investigation.

E. Further Action

- The complainant has the right to simultaneously pursue the matter through other legal means. The proceedings under this policy will not be stalled or postponed merely because the complainant is proceeding against the alleged harasser under any other provision of civil or criminal law.

Rights of The Respondent**A. Reply**

- Within 10 days after the respondent receives the copy of the charge sheet from LIC the respondent may tender any written explanation to the charges. He shall submit this to the Chairperson of the LIC.

B. Submission of Documents

- If a formal investigation is to take place the respondent may submit any documentation as evidence to the LIC
- Give his list of witnesses.

C. Investigation

- The respondent shall have the right to be heard in person and introduce evidence.
- The Respondent shall have the right to cross-examine witnesses, and the complainant introduced on behalf of the complainant.

Rights of The Witnesses

- The witness (of the Complainant / Respondent) can give it writing whatever he /she has known / seen / been told about the concerned case.
- The witnesses should not be victimised by the administration or the respondent for giving the witness.

X. PUNISHMENT FOR SEXUAL HARASSMENT:

Any person found guilty of sexual harassment shall be liable for punishment. When imposing punishment on the respondent, the MCGM service rules is recommended by MIC.

Penalties for Sexual Harassment As Per Service Rules:

As per the LAW the person guilty of sexual harassment, following penalties may be considered:

A. Minor Penalties:

- i. Written apology to the complainant clearly indicating that such behaviour will not be repeated and that no retaliatory steps will be taken by him/or others on his behalf.
- ii. Written reprimand, warning or censure.
- iii. Suspension for a period up to three days without suspension allowance
- iv. Withholding of increment for the year or more with temporary or permanent effect

B. Major Penalties

- i Reduction in rank.
- ii Reduction in pay
- iii. Removal and Dismissal
- iv. Debarred from appearing for final exams for a year.

C. Committee Discretion

- The MIC will issue a penalty for sexual harassment proportionate to the gravity of harassment.
- If administration does not adopt the proscribed penalty then it must state in writing its reasons to the MIC.
- Any person aggrieved from the recommendation made by the MIC within ninety days of receipt of recommendation may prefer to appeal to the court.
- If the administration does not implement the recommendations made by MIC, the LIC/ complainant can appeal to MIC/ and / or the court

If no discipline action is imposed there must be documentation of such administrative reasons by administration and inform MIC, so that MIC can workout administratively correct recommendations

XI. PROTECTION AGAINST VICTIMIZATION:

- When a student complainant/ gives witness accuses the person discharging the education then the MIC must also help with a transfer best suited for the situation.
- When the complainant/ witnesses and the respondent are both employees the respondent shall not write confidential reports of the complainant/ss, supervise the work of the complainant, compel the complainant to report to him if he is otherwise so authorised until the Complaints Committee has made a recommendation.
- If the respondent holds an equal/ higher position than the Chairwoman of the Complaints Committee then the complaint, the MIC can change the chair person to senior to the respondent.
- If the complainant is a patient, then the person against whom the complaint has been made will not be involved in discharge of treatment, following the complaint.

- If the alleged harasser is an outsider, then he will not be allowed to enter the premises following the complaint/ LIC will help the complainant to do the police complaint NC or FIR as the case may be.

XII. APEAL :

(1) Any Person aggrieved from the recommendation made under sub clause (2) (i) of clause of (F) of Rule VII or under sub clause (2) (iv) of clause (F) of rule VII or sub clause (3) of clause (F) of rule VII 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 service rules exist then; without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed .

(2) The appeal under the above sub-clause (1) shall be preferred within a period of ninety days of the recommendation.

XIII . OBLIGATION OF THE ADMINISTRATION:

A. NOTICE

- All employees must be on notice that this is policy may be affected in the case of any claims regarding sexual harassment.
- Administration must provide a clear statement that sexual harassment at the workplace is unlawful and will not be tolerated by the MCGM and that all allegations of sexual harassment will be taken seriously and responded promptly.
- The names and phone numbers of the LIC members shall be displayed on the notice board, sometimes in multiple areas.
- Employees must be trained in regards to what constitutes sexual harassment by LIC.
- Liability of any legal proceedings will be taken care by legal department of MCGM

B. IMPLEMENTATION

- Institutions/ Administrations shall provide assistance for the purpose of ensuring full, effective, and speedy implementation of the policy. This means supporting the LIC/MIC in every capacity.
- Implementation of recommendation by MIC should be done within sixty days.

IF THE RESPONDENT IS BOOKED UNDER POCSO: Mandatory reporting to Police by administration, LIC should inform the MIC immediately. If the respondent is MCGM employee he should be suspended with the immediate effect till the finalisation of the POCSO case and if the respondent is on contract with MCGM his contract should be terminated.

XIV SAVINGS:

- The provisions of this policy shall apply notwithstanding any contrary statute, law, directive or ordinance.

- The proceedings under this policy shall not be stalled or postponed merely because the complainant is proceeding against the respondent under the provisions of the civil and criminal law.
- The provisions of this policy shall not restrict the powers of the management or the complainant to proceed against the alleged offender for any misconduct or pursue criminal or civil remedies.

1. There should be regular reviews and the NGO members should be part of the reviews.
2. The NGO members should be present at all stages of the inquiry, the report, the action taken and the review.

Note--

Annexure will contain all the premises where LICs are functioning.
There could be change in the LIC - Number /Place or premises /Departments / as the MCGM premises change due to renovations, demolitions, new premises added

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

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Prevention of sexual harassment.

CHAPTER II

CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

4. Constitution of Internal Complaints Committee.

CHAPTER III

CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

5. Notification of District Officer.
6. Constitution and jurisdiction of Local Committee.
7. Composition tenure and other terms and conditions of Local Committee.
8. Grants and audit.

CHAPTER IV

COMPLAINT

9. Complaint of sexual harassment.
10. Conciliation.
11. Inquiry into complaint.

CHAPTER V

INQUIRY INTO COMPLAINT

12. Action during pendency of inquiry.
13. Inquiry report.
14. Punishment for false or malicious complaint and false evidence.
15. Determination of compensation.
16. Prohibition of publication or making known contents of complaint and inquiry proceedings.
17. Penalty for publication or making known contents of complaint and inquiry proceedings.
18. Appeal.

CHAPTER VI
DUTIES OF EMPLOYER

SECTIONS

19. Duties of employer.

CHAPTER VII
DUTIES AND POWERS OF DISTRICT OFFICER

20. Duties and powers of District Officer.

CHAPTER VIII

MISCELLANEOUS

21. Committee to submit annual report.
22. Employer to include information in annual report.
23. Appropriate Government to monitor implementation and maintain data.
24. Appropriate Government to take measures to publicise the Act.
25. Power to call for information and inspection of records.
26. Penalty for non-compliance with provisions of Act.
27. Cognizance of offence by courts.
28. Act not in derogation of any other law.
29. Power of appropriate Government to make rules.
30. Power to remove difficulties.

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

ACT NO. 14 OF 2013

[22nd April, 2013]

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows: —

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(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 on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires, —

(a) “aggrieved woman” means—

(i) 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 by the respondent;

(ii) in relation to dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

(b) “appropriate Government” means—

(i) in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly—

(A) by the Central Government or the Union territory administration, the Central Government;

(B) by the State Government, the State Government;

1. 9th December, 2013, vide notification No. S.O. 3606(E), dated 9th December, 2013, see Gazette of India, Extraordinary, Part II, sec. 3(ii).

(ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;

(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, 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 by any other such name;

(g) “employer” means—

(i) in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;

(ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.

Explanation. —For the purposes of this sub-clause “management” includes the person or board or committee responsible for formulation and administration of policies for such organisation;

(iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees;

(iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;

(h) “Internal Committee” means an Internal Complaints Committee constituted under section 4;

(i) “Local Committee” means the Local Complaints Committee constituted under section 6;

(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—

(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 by the employer for undertaking such journey;

(vi) a dwelling place or a house;

(p) “unorganised sector” in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.

3. Prevention of sexual harassment.—(1) No woman shall be subjected to sexual harassment at any workplace.

(2) The following circumstances, among other 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 ; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

CHAPTER II

CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

4. Constitution of Internal Complaints Committee.— (1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the “Internal Complaints Committee”:

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committees shall consist of the following members to be nominated by the employer, namely: —

(a) 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(1):

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;

(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 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 Members so nominated shall be women.

(3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

(5) Where the Presiding Officer or any Member of the Internal Committee, —

(a) contravenes the provisions of section 16; or

(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 so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

CHAPTER III

CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

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.

6. Constitution and jurisdiction of ¹[Local Committee].—(1) Every District Officer shall constitute in the district concerned, a committee to be known as the “¹[Local Committee]” to receive complaints of

1. Subs. by Act 23 of 2016, s. 3 and the Second Schedule, for “Local Complaints Committee” (w.e.f. 6-5-2016).

sexual harassment from establishments where the ¹[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 ²[Local Committee] within a period of seven days.

(3) The jurisdiction of the ²[Local Committee] shall extend to the areas of the district where it is constituted.

7. Composition, tenure and other terms and conditions of ²[Local Committee].—(1) The ²[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 organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed:

Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge:

Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time;

(d) the concerned officer dealing with the social welfare or women and child development in the district, shall be a member *ex officio*.

(2) The Chairperson and every Member of the Local Committee shall hold office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Officer.

(3) Where the Chairperson or any Member of the ²[Local Committee]—

(a) contravenes the provisions of section 16; or

(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) 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 Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

(4) The Chairperson or Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.

8. Grants and audit.—(1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the State Government grants of such sums of money as the Central

1. Subs. by Act 23 of 2016, s. 3 and the Second Schedule, for “Internal Complaints Committee” (w.e.f. 6-5-2016).

2. Subs. by s. 3 and the Second Schedule, *ibid.*, for “Local Complaints Committee” (w.e.f. 6-5-2016).

Government may think fit, for being utilised for the payment of fees or allowances referred to in sub-section (4) of section 7.

(2) The State Government may set up an agency and transfer the grants made under sub-section (1) 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 referred to in sub-section (4) of section 7.

(4) The accounts of the agency referred to in sub-section (2) shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the person holding the custody of the accounts of the agency shall furnish, to the State Government, before such date, as may be prescribed, its audited copy of accounts together with auditors' report thereon.

CHAPTER IV

COMPLAINT

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:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(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.

10. Conciliation.—(1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation:

Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where settlement has been arrived at under sub-section (1), 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 under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (1), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

11. Inquiry into complaint.—(1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, 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 and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee 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 (45 of 1860), and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, 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.

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

(3) For the purpose of making an inquiry under sub-section (1), 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) when trying a suit in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
 - (b) requiring the discovery and production of documents; and
 - (c) any other matter which may be prescribed.
- (4) The inquiry under sub-section (1) shall be completed within a period of ninety days.

CHAPTER V

INQUIRY INTO COMPLAINT

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; or
- (b) grant leave to the aggrieved woman up to a period of three months; or
- (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, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.

13. Inquiry report.—(1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be—

(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;

(ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:

Provide that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman:

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or as, the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

(4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

14. Punishment for false or malicious complaint and false evidence.—(1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion 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, 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 under sub-section (1) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

15. Determination of compensation.—For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, 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.

16. Prohibition of publication or making known contents of complaint and inquiry proceedings.—Notwithstanding anything contained in the Right to Information Act, 2005 (22 of 2005), the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings,

recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

17. Penalty for publication or making known contents of complaint and inquiry proceedings.—Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section 16, 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.

18. Appeal.—(1) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 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 service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.

(2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations.

CHAPTER VI

DUTIES OF EMPLOYER

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 under sub-section (1) of section 4;

(c) 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;

(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) make available such information to the Internal Committee or the Local Committee, as the case be, as it may require having regard to the complaint made under sub-section (1) of section 9;

(g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code (45 of 1860) or any other law for the time being in force;

(h) cause to initiate action, under the Indian Penal Code (45 of 1860) 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;

(i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;

(j) monitor the timely submission of reports by the Internal Committee.

CHAPTER VII

DUTIES AND POWERS OF DISTRICT OFFICER

20. Duties and powers of District Officer.—The District Officer shall, —

(a) monitor the timely submission of report furnished by the Local Committee;

(b) take such measures as may be necessary for engaging non-governmental organisations for creation of awareness on sexual harassment and the rights of the women.

CHAPTER VIII

MISCELLANEOUS

21. Committee to submit annual report.—(1) The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.

(2) The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government.

22. Employer to include information in annual report.—The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.

23. Appropriate Government to monitor implementation and maintain data.—The appropriate Government shall monitor the implementation of this Act and maintain data on the number of cases filed and disposed of in respect of all cases of sexual harassment at workplace.

24. Appropriate Government to take measures to publicise the Act.—The appropriate Government may, subject to the availability of financial and other resources, —

(a) develop relevant information, education, communication and training materials, and organise awareness programmes, to advance the understanding of the public of the provisions of this Act providing for protection against sexual harassment of woman at workplace;

(b) formulate orientation and training programmes for the members of the ¹[Local Committee].

25. Power to call for information and inspection of records.—(1) The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace to do so, by order in writing,—

(a) call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require;

(b) authorise any officer to make inspection of the records and workplace in relation to sexual harassment, who shall submit a report of such inspection to it within such period as may be specified in the order.

(2) Every employer and District Officer shall produce on demand before the officer making the inspection all information, records and other documents in his custody having a bearing on the subject matter of such inspection.

26. Penalty for non-compliance with provisions of Act.—(1) Where the employer fails to—

(a) constitute an Internal Committee under sub-section (1) of section 4;

1. Subs. by Act 23 of 2016, s. 3 and the Second Schedule, for “Local Complaints Committee” (w.e.f. 6-5-2016).

(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 or any rules made thereunder,

he shall be punishable with fine which may extend to fifty thousand rupees.

(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:

Provided that in case a higher punishment is prescribed under any other law for the time being in force, for the offence for which the accused is being prosecuted, the court shall take due cognizance of the same while awarding the punishment;

(ii) cancellation, of his licence 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.

27. Cognizance of offence by courts.—(1) No court shall take cognizance of any offence punishable under this Act or any rules made thereunder, save on a complaint made by the aggrieved woman or any person authorised by the Internal Committee or Local Committee in this behalf.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Every offence under this Act shall be non-cognizable.

28. Act not in derogation of any other law.—The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

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.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the fees or allowances to be paid to the Members under sub-section (4) of section 4;

(b) nomination of members under clause (c) of sub-section (1) of section 7;

(c) the fees or allowances to be paid to the Chairperson, and Members under sub-section (4) of section 7;

(d) the person who may make complaint under sub-section (2) of section 9;

(e) the manner of inquiry under sub-section (1) of section 11;

(f) the powers for making an inquiry under clause (c) of sub-section (2) of section 11;

(g) the relief to be recommended under clause (c) of sub-section (1) of section 12;

(h) the manner of action to be taken under clause (i) of sub-section (3) of section 13;

(i) the manner of action to be taken under sub-sections (1) and (2) of section 14;

(j) the manner of action to be taken under section 17;

(k) the manner of appeal under sub-section (1) of section 18;

(l) the manner of organising workshops, awareness programmes for sensitising the employees and orientation programmes for the members of the Internal Committee under clause (c) of section 19; and

(m) the form and time for preparation of annual report by Internal Committee and the Local Committee under sub-section (1) of section 21.

(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Any rule made under sub-section (4) of section 8 by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

30. Power to remove difficulties.— (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.