

प्रेषक

श्रम आयुक्त, हरियाणा,
चण्डीगढ़।

सेवा में

1. सभी अधिष्ठता अधिकारी, हरियाणा राज्य।
2. अतिरिक्त श्रम आयुक्त, गुडगॉव(एन0सी0आर0)।
3. सभी उप श्रम आयुक्त, हरियाणा राज्य।
4. सभी संयुक्त निदेशक, औद्योगिक सुरक्षा एवं स्वास्थ्य, हरियाणा राज्य।
5. सभी उप निदेशक, औद्योगिक सुरक्षा एवं स्वास्थ्य, हरियाणा राज्य।
6. सभी सहायक श्रम आयुक्त, हरियाणा राज्य।
7. सभी सहायक निदेशक, औद्योगिक सुरक्षा एवं स्वास्थ्य, हरियाणा राज्य।
8. कल्याण अधिकारी (महीला) फरीदाबाद व पानीपत।

क्रमांक/आई0आर0-3/ 32124-206
दिनांक : 13-9-18

विषय : Effective implementation of Sexual Harassment of Women at Work place (Prevention, Prohibition and Redressal) Act, 2013.

उपरोक्त विषय पर के सन्दर्भ में।

विषय सम्बन्ध में आपको महिला एवं बाल विकास विभाग, हरियाणा सरकार से प्राप्त पत्र दिनांक 18.07.18 (फोटो प्रति) सभी अनुलग्नकों सहित भेजते हुये अनुरोध किया जाता है कि दर्शाई गये दिशा निर्देशों की दृढ़ता से पालना करें।

कृपया इसे परम अग्रता दें।

संलग्न/उपरोक्त

कृते: श्रम आयुक्त, हरियाणा।
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Please ensure compliance

21-55/PS/WCD/2018

Principal Secretary to Government Haryana
Women & Child Development Department,

23-7-18

Dr. Raja Sekhar Vundru, I.A.S

Chandigarh dated, the 18/07/2018

Secy. Labour Dept
Govt. Haryana

Dear Sir,
PSIC
24-7-18



Subject: Effective implementation of Sexual Harassment of Women at Work place (Prevention, Prohibition and Redressal) Act, 2013.

ALCA

20/7/18
Relates to
IR-3 branch

As you are aware that the Sexual Harassment of Women at work place (prevention, prohibition and Redressal) Act, 2013 has come into force since 09.12.2013 and being the Nodal department for the implementation of the said Act this department issued necessary instructions to all the Department, Board/Corporation and Commission to constitute "Internal Complaints Committee" in their respective organization/ establishment under section 4.

It is further intimated that Writ petition (Civil) 1224 of 2017 titled as Initiatives for Inclusion Foundation & Anr Versus Union of India and Ors has been field in the Hon'ble Supreme Court of India in which it has been prayed by the petitioner that Union of India/States and UTs to implement the provisions of the said Act & Rules without any further delay.

In this regard, please find a brief note highlighting relevant section of the Act for information and necessary action. The copy of the Act and Rules is also available www.wcdhry.gov.in

Therefore, I shall be grateful if you could personally monitor to ensure the constitution of an "Internal Complaints Committee" in your respective organization and also to ensure that every employer has to abide by the duties/functions prescribed under section 19 of the Act for the effective implementation of Sexual Harassment of Women at Work place (prevention, prohibition and Redressal) Act, 2013. Further, it is also requested to ensure that awareness generation of the various provisions of the Act for the members of the ICC and as well as for the general public be organized.

Yours sincerely,

With regards

(Dr. Raja Sekhar Vundru)

Sh. Mahavir Singh, IAS
Principal Secretary to Govt. Haryana,
Labour Department

O/O PS Labour
NO. 17866
Dt. 23/7/2018

18500
26/7/18

Relevant sections on constitution of **Internal Complaints Committee** and Rules under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Section-2 Workplace:- Under sub-section (o) of Section-2, workplace includes:-

(i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;

(ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service.

(iii) hospitals or nursing homes;

(iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;

(v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey;

(vi) a dwelling place or a house;

Unorganised Sector- Sub-Section (p) of Section-2, 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**.

Section-4 (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 Committee 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 atleast 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) 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.

Section-19 Duties of Employer-

Every employer shall-

(a) provide a safe working environment at the workplace which 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 security 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 may 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 or any other law for the time being in force;

(h) cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;

- (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.

Section-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.

Section-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 organization or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.

Section-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;
- b. take action under section 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 (Rs. 50,000/-).

(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.

Rule 3

Fees or allowances for Member of Internal Committee- (1) The Member appointed from amongst non-governmental organisation shall be entitled to an allowance of two hundred rupees (Rs. 200/-) per day for holding the proceedings of the Internal Committee and also the reimbursement of travel cost incurred in travelling by train in three tier air condition or air conditioned bus and auto rickshaw or taxi, or the actual amount spent by him on travel, whichever is less.

The employer shall be responsible for the payment of allowances referred to in sub-rule (1)

Rule 6

Complaint of sexual harassment: - For the purpose of sub-section (2) of section 9;

- (i) where the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by her relative or friend, co-worker, an officer of the National Commission for Women or State Women Commission or any person who has the knowledge of incident, with the written consent of the aggrieved woman,
- (ii) where the aggrieved woman is unable to make a complaint on account of her mental incapacity, a complaint may be filed by her relative, special educator, qualified psychiatrist or psychologist; guardian or any other person who has the knowledge of the incident.
- (iii) where the aggrieved woman for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident with her written consent;
- (iv) where the aggrieved woman is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of her legal heir.

Rule 7

Manner of inquiry into complaint: -

- (1) Subject to the provision of section 11, at the time of filing the complaint, the complainant shall submit to the Complaints Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.
- (2) On receipt of the complaint, the Complaints Committee shall send one of the copies received from the aggrieved woman under sub-rule (1) to the respondent within a period of seven working days.
- (3) The respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses, within a period not exceeding 10 working days from the date of receipt of the documents specified under sub rule (1).
- (4) The Complaint Committee shall make inquiry into the complaint in accordance to the principals of natural justice.
- (5) The Complaint Committee shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Chairperson or Presiding Officer, as the case may be.

Provided that such termination or ex-parte order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.

(6) The party shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Complaint Committee.

(7) In conducting the inquiry, a minimum of three Members of the Complaint Committee including the Presiding officer or the Chairperson, as the case may be, shall be present.

Rule 8

Other relief to complainant during pendency of inquiry: - The Complaints Committee at the written request of the aggrieved woman may recommend relief to the employer.

Rule 9 **Manner of taking action for sexual harassment:** - Except in cases where service Rules exist, Complaints Committee may take written apology, warning, reprimand / censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service or undergoing a counselling session or carrying out community service.

Rule 10 **Action for false or malicious complaint or false evidence:** -Except in cases where service Rules exist, where Complaints Committee arrives at conclusion that allegation against respondent is malicious Complaints Committee may recommend to the employer or district officer, as the case may be, to take action in accordance to the provisions of Rule 9.

Rule 11 **Appeal:** - Subject to the provisions of section 18, any person aggrieved from the recommendations made under sub-section (2) of section 13 or under 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 appellate authority notified under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946).

In supersession of Punjab Govt. Notification No. CA-20/46/S.2(a)/62/1108, dated the 26th April, 1962 and in exercise of the powers conferred by clause (a) of Section 2 of the Industrial Employment (Standing Orders Act, 1946) (Act No. XX of 1946), the Governor of Haryana has appointed the Industrial Tribunal, Haryana, appointed under section 7-A of the Industrial Disputes Act, 1947 to exercise within the State of Haryana the functions of the Appellate authority under the Act, vide Haryana Government Notification No. 45/CA20/46/S.2/67, the 23rd May, 1967 (List of presiding officers and jurisdictional limits for hearing cases of appeal is enclosed).

Rule 12 **Penalty for contravention of provisions of section 16:** - Subject to the provisions of section 17, if any person contravenes the provisions of section 16, the employer shall recover a sum of five thousand rupees (Rs. 5,000/-) as penalty from such person.

Rule 13 **Manner to organise workshops, etc.:-** Subject to the provisions of section 19, every employer shall formulate and widely disseminate an internal policy, to promote gender sensitive safe spaces, carry out orientation and awareness programmes for employees etc.

Rule 14 **Preparation of annual report:** - The annual report which the Complaints Committee shall prepare under section 21, shall have the following details: -

- (a) number of complaints of sexual harassment received in the year;
- (b) number of complaints disposed off during the year;
- (c) number of cases pending for more than ninety days;
- (d) number of workshops or awareness programme against sexual harassment carried out;
- (e) nature of action taken by the employer or District Officer.

The Women and Child Development Department, Haryana is the Nodal Department for the implementation of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Sr. No.	Name Address & Designation of Presiding Officers	Office Telephone No.	Jurisdictional Limits
1.	Sita Gupta, Presiding Officer, Labour Court, Ambala	0171-2534100	Ambala, Yamunanagar, Kurukshetra, Panchkula and Kathal Districts.
2.	Dr. Dayanand Bhardwaj, Presiding Officer, Labour Court, Faridabad-I	0129-2225066	Western side of Mathura Road in Faridabad District starting from Delhi-Haryana Border on the Mathura road upto Neelam Bridge. Further to Neelam bridge only the area between Railway line and Mathura road upto Mujesar crossing. The area of Sanjay Gandhi Memorial Nagar, Pali Mohabbad stone crushing zone and Sector-2 to 5 of New Industrial Township (Faridabad). The Eastern sides of the Mathura Road falling between Yamuna River and Mathura Road commencing from Delhi-Haryana Border on the Mathura Road and extending upto Young Man Christian Academy, including the area falling under the Urban Estate of Sector-4 and 7 to 10.
3.	Meenakshi Mehta Presiding Officer, Labour Court, Faridabad-II	0129-2262631	Sector-24, Old Industrial Area of New Industrial Township, New Industrial Township No.-1 including the area of Debra Colony upto village Bhakri and Nawada Jawahar Colony, Press Colony, Mujesar.
4.	Subhash Mehta Presiding Officer, Labour Court, Faridabad-III	0129-2220380	Urban Estate Sector-5,6,22,23,25,26,29,59 and area between the railway line and Mathura Road after Mujesar crossing upto Gurgaon canal and all the areas falling on both the sides of Mathura Road after Gurgaon canal in the eastern extending upto Yamuna River and in the western extending up to the border of Sohna Tehsil, but excluding the area of industrial Tribunal-cum-Labour Court, Faridabad-I and II and including the area of Palwal, Nodal and Mathin Sub Divisions of District Faridabad.
5.	Ajay Kumar Jain, Presiding Officer, Labour Court, Gurgaon-I	0124-2307705	Industrial Area Mehrauli Road, Haryana State Industrial Development Corporation, Chander Nagar, Old DLF Area, Left side of Rajiv Chowk of Jaipur Road upto border of Gurgaon District, Udyog Vihar Phase-IV and V, Manul Industrial Complex, Haryana State Industrial Development Corporation Complex, Phase of Ansal Sushant Lok and Unitech South City, District of Rewari and Mevat.
6.	Ajay Parashar, Presiding Officer, Labour Court, Gurgaon-II	0124-2307086	District of Gurgaon, excluding the area falling under the jurisdiction of Industrial Tribunal-cum-Labour Court, Gurgaon-I and District of Mahendergarh.
7.	Vacant, Presiding Officer, Panipat	0180-2658472	Civil Court, Opp. D.C. Office, Asand Road, Panipat.
8.	Sudhir Jiwari, Presiding Officer, Rohtak	01262-230784	Civil Court, Near Mini Secretariat, Rohtak
9.	Ashok Kumar Verma Presiding Officer, Hisar	01662-233805	