

Bill Summary

The Protection of Women from Sexual Harassment at Workplace Bill, 2010

- The Protection of Women from Sexual Harassment at Workplace Bill, 2010 was introduced in the Lok Sabha on December 7, 2010. The Bill has been referred to the Parliamentary Standing Committee on Human Resource Development (Chairperson: Shri. Oscar Fernandes), which is scheduled to submit its report within two months.
- The Bill lays down the definition of sexual harassment and seeks to provide a mechanism for redressing complaints. It provides for the constitution of an 'Internal Complaints Committee' at the workplace and a 'Local Complaints Committee' at the district and block levels. A District Officer, to be notified by the state or central government, shall be responsible for facilitating and monitoring the activities under the Act.
- Sexual harassment at the work place includes unwelcome sexually determined behaviour such as (i) physical contact and advances; (ii) demand or request for sexual favours; (iii) sexually coloured remarks; (iv) screening of pornography; (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature
- The Bill prohibits sexual harassment if it includes (i) promise of preferential treatment; (ii) threat of detrimental treatment; (iii) threat about employment status; (iv) creation of a hostile work environment; and (v) conduct constituting health and safety problems.
- The Bill defines a workplace as any public or private organization, including any place visited by an employee during the course of work. It covers every woman at the workplace (whether employed or not) except a domestic worker working at home. The employer is defined as the person responsible for the management, supervision and control of the workplace.
- The Bill assigns certain duties to each employer. These include (a) providing a safe working environment; (b) constituting an Internal Complaints Committee and conspicuously displaying the order constituting the Committee; (c) undertaking workshops and training programmes at regular intervals for sensitizing employees; (d) providing assistance during an inquiry; (e) initiating action against the perpetrator.
- Every employer is required to constitute an 'Internal Complaints Committee' at all offices and branches with staff strength of 10 or more employees. Members to the committee are to be nominated by the employer and shall include:
 - (i) a Presiding Officer who is a senior level woman employee. In case such a person is not available, the District Officer may nominate a person from the Local Complaints Committee;
 - (ii) two or more employees who are either committed to the cause of women or have experience in social work or possess legal knowledge;
 - (iii) one member from an NGO committed to the cause of women
- A member of this Committee may not engage in any paid employment outside the duties of his office.
- A 'Local Complaints Committee' is required to be constituted in every district. An additional 'Local Complaints Committee' may also be constituted at the block/ ward level to address complaints (i) where the complainant does not have recourse to an Internal Complaints Committee (applicable in cases where the workplace employees less than 10 people); (ii) where the complaint is against the employer himself.
- Members to each 'Local Complaints Committee' shall be nominated by the District Officer and shall include:
 - (i) a Chairperson from among the eminent women in the field of social work and committed to the cause of women;
 - (ii) one member from among the women working in the area concerned;
 - (iii) two members, of whom at least one is a woman, from an NGO committed to the cause of women;
 - (iv) the Protection Officer for the area appointed under the Protection of Women from Domestic Violence Act, 2005.
- At least 50% of the nominated members in any Internal or Local Committee must be women. Each member shall be nominated for a term of three years and shall be paid the fees or allowances (to be prescribed in the rules) for participating in the proceedings of the committee.



- An aggrieved woman may complain to the Internal Committee if such a committee has been constituted in her workplace. In other cases, she may file a complaint with the Local Committee. All complaints must be in writing.
- The Committee shall provide for conciliation before initiating an inquiry if requested by the complainant. If a settlement is reached, no further inquiry shall be conducted. If conciliation is not desired, or when settlement fails, the Committee shall initiate an inquiry into the complaint. The inquiry must be completed within 90 days.
- If the complainant gives a written request during the inquiry, the Committee may recommend to the employer to (a) transfer the aggrieved woman to any other workplace; (b) grant her leave; or (c) provide other relief.
- After completion of the inquiry, the Committee shall present its recommendations to the employer or the District Officer, as the case may be. The employer or the District Officer must act upon the recommendation within 60 days of its receipt.
- If an allegation is proved, the Committee shall recommend penalties for sexual harassment as per service rules applicable or the Rules under the Act. In addition, it may provide for monetary compensation to the complainant.
- If the allegation is proved to be false or malicious, the Committee may recommend action against the complainant. However, action may not be taken against a complainant merely on the inability to substantiate a complaint or provide adequate proof.
- Appeals against the recommendations of either Committee shall lie with the courts. All appeals must be filed within a period of 30 days of the recommendations.
- Penalties have also been prescribed for employers who fail to comply with the provisions of the Act. Non-compliance shall be punishable with a fine of up to Rs. 50,000. Repeated violations may lead to higher penalties and cancellation of licence or registration.

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