

Sexual Harassment at the Workplace

Sexual harassment at the workplace encompasses any unwelcome conduct of a sexual nature, whether direct or indirect, that has the purpose or effect of violating an individual's dignity, or of creating an intimidating, hostile, degrading, humiliating, or offensive working environment, or of influencing employment-related decisions.

- ***The Prevention of Sexual Harassment (PoSH) Act, 2013, sexual harassment includes, inter alia:***
 - Unwelcome physical contact or advances of a sexual nature;
 - A demand or request for sexual favours, whether express or implied;
 - Sexually coloured remarks, statements, or innuendoes;
 - Display, circulation, or transmission of pornographic or sexually explicit material, in any form;
 - Any other unwelcome verbal, non-verbal, or physical conduct of a sexual nature, including conduct through electronic or digital means.

- ***Composition of Internal Committee (IC) under the PoSH Act, 2013:*** As per Section 4 of the PoSH Act, 2013, every employer with 10 or more employees must constitute an Internal Committee (IC) as follows:
 - Presiding Officer: A senior woman employee
 - Employee Members: Minimum two employees committed to women's causes / social work / legal knowledge
 - External Member: One member from an NGO or an individual familiar with sexual harassment issues

Key Requirements:

- At least 50% members must be women
- External Member is mandatory
- Tenure: Up to 3 years
- IC must be constituted by written order

Improper constitution of the IC may invalidate proceedings and attract statutory penalties.

- ***POSH-Compliant Redressal System:*** A POSH-compliant redressal system is a legally mandated mechanism under the PoSH Act, 2013 for receiving, inquiring into, and resolving complaints of sexual harassment at the workplace.

Core Components:

- Internal Committee (IC): Properly constituted as per Section 4
- Complaint Mechanism: Written complaint within 3 months of the incident (extendable)
- Inquiry Process: Time-bound, impartial, and confidential inquiry by the IC
- Principles of Natural Justice: Fair hearing to both parties
- Confidentiality: Mandatory non-disclosure of identities and proceedings
- Interim Relief: Transfer, leave, or other relief during inquiry, if requested
- Time Limits:
 - Inquiry to be completed within 90 days
 - Report to employer within 10 days
 - Employer action within 60 days
- Corrective Action: Disciplinary action, compensation, or preventive measures
- Appeal Mechanism: Right to appeal as per service rules

A POSH-compliant redressal system ensures legal compliance, procedural fairness, confidentiality, and timely resolution of complaints, while safeguarding the dignity of all parties involved.

- **POSH-Compliant Timeline:** The PoSH Act, 2013 prescribes strict timelines to ensure timely and effective redressal of complaints of sexual harassment at the workplace:

Task	Timeline
Filing of Complaint	Within 3 months from the date of the incident (Extendable by the IC for a further period, for recorded reasons)
Conciliation (Optional)	Prior to inquiry, only at the request of the aggrieved woman (No monetary settlement permitted)
Inquiry Initiation	Within 7 days from complaint
Inquiry Period	To be completed within 90 days from receipt of complaint
Submission of Inquiry Report	Within 10 days of completion of inquiry. Copy to be provided to both parties
Employer's Action on IC Recommendations	Within 60 days of receipt of the inquiry report
Appeal	Within 90 days from the date of recommendations or action taken

*** Adherence to these timelines is mandatory. Any delay or deviation may amount to statutory non-compliance and expose the employer to penalties under the Act.**

- **Obligations and Compliances by employer under the PoSH Act, 2013**

Obligation Area	Employer Responsibility
Safe Workplace	Provide a safe working environment free from sexual harassment
Policy Adoption	Formulate and implement a written POSH policy
Policy Disclosure	Display POSH policy at conspicuous places
Internal Committee	Constitute Internal Committee by written order
IC Composition	Ensure lawful composition of IC
IC Independence	Enable IC to function without interference
Awareness Programs	Conduct regular employee sensitization
IC Training	Provide periodic training to IC members
Complaint Mechanism	Provide accessible complaint filing process
Assistance	Assist aggrieved woman in filing complaint
Interim Relief	Implement IC's interim recommendations
Inquiry Support	Provide documents, witnesses, and facilities
Timely Action	Act on IC recommendations within 60 days
Confidentiality	Maintain strict confidentiality
Victim Protection	Protect complainant from retaliation
Record Maintenance	Maintain records of complaints and actions
Annual Reporting	Submit annual report to District Officer
Penalties Compliance	Ensure awareness of statutory penalties

➤ **Penalties under the PoSH Act, 2013**

Nature of Non-Compliance / Violation	Penalty / Consequence
Failure to constitute Internal Committee	Fine up to ₹50,000
Non-implementation of PoSH provisions	Fine up to ₹50,000
Failure to file POSH Annual Report	Fine up to ₹50,000
Violation of confidentiality obligations	Fine as prescribed / disciplinary action
Non-compliance with IC recommendations	Fine up to ₹50,000
Repeated non-compliance	Double penalty for subsequent offence
Continued violations	Cancellation, withdrawal, or non-renewal of licence / registration
Malicious or false complaint (after inquiry)	Action against complainant as per service rules (<i>no automatic penalty</i>)
False evidence or documents	Disciplinary action as per service rules