

COMPLIANCES AND RETURNS UNDER PREVENTION OF SEXUAL HARASSMENT (POSH) ACT

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INTRODUCTION

The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 (commonly known as “POSH Act” or “the Workplace Harassment Law”), was notified on 23rd April 2013, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Rules, 2013, were notified on 09th December 2013, (Jointly referred to as “Sexual Harassment Law”)

APPLICABILITY AND SCOPE

Applicable Jurisdiction	The POSH Act extends to the ‘whole of India’
Aggrieved Woman	As per the POSH Act, an ‘aggrieved woman’ in relation to a workplace, is a woman of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment. Given that the definition does not necessitate the woman to be an employee, even a customer/ client who may be sexually harassed at a workplace can claim protection under the POSH Act. <pre>graph LR; AW[Aggrieved Women] --> W[Working]; AW --> NW[Non Working]; W --> RT[Regular/Temporary]; W --> RV[Remuneration / Voluntary]; W --> ED[Employed Directly / Agent]; W --> CW[Contract Woker]; W --> P[Probationer]; W --> TA[Trainee / Apprentice]; NW --> V[Visiting]; NW --> S[Student];</pre>
Covered bodies	The POSH Act applies to both the organized and unorganized sectors in India. It <i>inter alia</i> , applies to government bodies, private and public sector organizations, non-governmental organizations, organizations carrying out commercial, vocational, educational, entertainment, industrial, financial activities, hospitals and nursing homes, educational institutes, sports institutions and stadiums used for training individuals and also applies to a dwelling place or a house.

What is Sexual Harassment

- Physical contact and advances; or
- A demand or request for sexual favours; or
- Making sexually colored remarks; or
- Showing pornography; or
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

Events deemed to be Sexual Harassment

- Implied or explicit promise of preferential treatment in her employment; or
- Implied or explicit threat of detrimental treatment in her employment; or
- Implied or explicit threat about her present or future employment status; or
- Interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- Humiliating treatment likely to affect her health or safety

Compliances under Sexual Harassment Laws

- Constituting an Internal Complaints Committee (ICC) under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013;
- The ICC needs to have an external representation from an NGO or a Lawyer or a person having knowledge and experience in such areas.
- Drafting of the Sexual Harassment Policy and approval of the same by the Board.
- Convening meetings of the Internal Complaints Committee as and when required
- Filing of Annual Return under the Act
- To conduct awareness workshops for the employees and orientation programmes for the ICC in accordance with the Act
- Investigation of the Complaints made to the Committee and submitting a report thereto;
- Assistance by the Company to the complainant in filing of FIR or complaint to the police, if required
- Reporting the complaints received and disposed off, in the Board's Report along with annual Financial Statements

Penalty for Non Compliance

- Non-Compliance of the provisions of the POSH Act may lead to a penalty of Rs. 50,000 or cancellation of business license.

We, at RAK Foundation India, help Companies in POSH compliances by nominating a Woman as an external member of the ICC, conducting workshops, carrying out investigations, filing returns and ensuring compliances under the POSH Act.

Please free to contact me or RAK Team, for any further clarification, guidance or assistance on the POSH Act.

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Thanks & Regards

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