

**THE PROTECTION AGAINST  
HARASSMENT OF WOMEN AT THE  
WORKPLACE ACT, 2010**

## **1 - SHORT TITLE AND COMMENCEMENT.-**

This Act may be called the Protection Against Harassment at the Workplace Act, 2008.

- (2) It extends to the whole of Pakistan.
- (3) It shall come into force at once.

# Objectives of the Act

- To create a safe working environment for women and men workers, which is free of sexual harassment.
- Free from abuse and intimidation with a view to enable higher productivity and a better quality of life at work
- Economic Empowerment of women, sexual harassment is one of the biggest hurdles faced by working women preventing their families out of poverty.

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# Manifestations of Harassment in the Work Environment

## a) **Abuse of authority**

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A demand by a person in authority for sexual favors in order for certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer or the job itself.

## b) **Creating a hostile environment**

Any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with an individual's work performance or creates an hostile, abusive or offensive work environment.

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### c) Retaliation

The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee's options for future promotions or training, distorting the evaluation reports, generating gossip against the employee or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment.

## 2- DEFINITIONS

**1. organization”** means a Federal or Provincial Government Ministry, Division or department, a corporation or any autonomous or semi-autonomous body, Educational Institutes, Medical facilities established or controlled by the Federal or Provincial Government or District Government or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance, 1984 and includes any other registered private sector organization or institution;

2. “**workplace**” means the place of work or the premises where an organization or employer operates and includes building, factory, open area or a larger geographical area where the activities of the organization or of employer are carried out and including any situation that is linked to official work or official activity outside the office.

# **“SEXUAL HARASSMENT” MEANS ANY**

1. request for sexual favors or other verbal or written communication
2. physical conduct of a sexual nature
3. sexually demeaning attitudes,
4. causing interference with work performance or
5. creating an intimidating, hostile or offensive work environment,
6. the attempt to punish the complainant for refusal to comply to such a request

**“accused”** means an employee or employer of an organization against whom complaint has been made under this Act;

**“Competent Authority”** the authority as may be designated by the management for the purposes of this Act;

**“complainant”** means a person who has made a complaint to Inquiry Committee on being aggrieved by an act of sexual harassment;

**“employee”** means a regular or contractual employee whether employed on daily, weekly, or monthly or hourly basis, and includes an apprentice;

### **3. INQUIRY COMMITTEE**

Each organization shall constitute an Inquiry Committee under this Act.

(2) The Committee shall consist of three members of whom at least one member shall be a woman. One member shall be from senior management and one shall be a senior representative of the employees or a senior employee. One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson shall be designated from amongst them.

(3) In case a complaint is made against one of the members of the Inquiry Committee that member should be replaced by another for that particular case. The co-opted member can be from within or outside the organization;

## 4- PROCEDURE FOR HOLDING INQUIRY

- 1.The Inquiry Committee, within three days of receipt of a complaint, shall–
  - (a)communicate to the accused the charges and statement of allegations leveled against him;
  - (b) require the accused within seven days to submit a written defense and on his failure to do so without reasonable cause, , the Committee shall proceed *ex parte*; and
  - (c) enquire into the charge and may examine such oral or documentary evidence. committee shall be entitled to cross-examine the witnesses.

**(3) The following provisions shall be followed by the Committee in relation to inquiry:-**

**(a) the statements and other evidence acquired in the inquiry process shall be considered as confidential;**

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**(b) an officer in an organization, if considered necessary, may be nominated to provide advice and assistance to each party;**

**(c) both parties, the complainant and the accused, shall have the right to be represented or accompanied by a Collective Bargaining Agent representative, a friend or a colleague;**

**(d) adverse action shall not be taken against the complainant or the witnesses;**

**(e) the Inquiry Committee shall ensure that the employer or accused shall in no case create any hostile environment for the complainant so as to pressurize her from freely pursuing her complaint; and**

**(f) the Inquiry Committee shall give its findings in writing by recording reasons thereof.**

## **MINOR PENALTIES:**

- (a) Censure;
- (b) Withholding, for a specific period, promotion or increment;
- (c) stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar;
- (d) Recovery of the compensation payable to the complainant from pay or any other source of the accused;

## **MAJOR PENALTIES:**

- (a) reduction to a lower post,
- (b) Compulsory retirement;
- (c) Removal from service.
- (d) Fine.

- The Competent Authority shall impose the penalty recommended by the Inquiry Committee under sub-section ((4) within one week of the receipt of the recommendations of the Inquiry Committee.
- The Inquiry Committee shall meet on regular basis and monitor the situation regularly until they are satisfied.

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- In case the complainant is in trauma the organization will arrange for *psycho-social counseling or medical treatment* and for additional medical leave.
- The organization may also offer compensation to the complainant in case of loss of salary/damages.

## **5- Powers of the Inquiry Committee.–**

**(1 )The Inquiry Committee shall have power–**

- (a) To require the discovery and production of any document;**
- (b) To receive evidence on affidavits; and**
- (c) To record evidence.**

**(2)The Inquiry Committee shall have the power to inquire into the matters of sexual harassment under this Act and may recommend appropriate penalty Minor/Major**

**(3)The Inquiry Committee can instruct to treat the proceedings confidential.**

**An Ombudsman will be established in the Federal Capital and all the major cities of the country.**

## **6- Appeal against minor and major penalties.-**

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- (1) Any party aggrieved on whom minor or major penalty is imposed may within thirty days of decision can appeal to an Ombudsman established under section 7 .
- (2) The Appellate Authority may, confirm, set aside, vary or modify the decision within thirty days .

## 7- Ombudsman

- ( 1) The government shall appoint an ombudsman at the Federal and provincial levels through the National Commission on the Status of Women.
- (2) A person shall be qualified to be appointed as an Ombudsman who has been a judge of high court or qualified to be appointed as a judge of high court.
- (3) Any employee who fears about inquiry Committee might approach the Ombudsman directly and submit a formal complaint of sexual harassment
- (4) The Ombudsman shall within 3 days of receiving a complaint will issue a show cause notice to the accused. The Accused shall respond within five days.
- c) The Ombudsman shall inform the management or the employer about the complaint and the final decision.
- e) The Ombudsman shall record his decision and inform both parties and the management of the concerned organization for implementation of the orders.

## 8. Powers of the Ombudsman

The Ombudsman shall have the same powers as are vested in a Civil Court under the Code of Civil Procedures, 908 (Act V of 908), in respect of the following matters, namely:

- (1) Summoning and enforcing the attendance and examining him on oath;
- (2) Compelling the production of evidence;
- (3) Receiving evidence on affidavits; and
- (4) Issuing commission for the examination of witnesses
- (5) Entering any premises for the purpose of making any inspection or investigation, enter any premises where the Ombudsman has a reason to believe that any information relevant to the case may be found.
- (6) The Ombudsman shall have the same powers as the High Court has to punish any person for its contempt.

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## 9. Responsibility of employer

(1) It shall be the responsibility of the employer to

ensure implementation of this Act, incorporate the Code of Conduct for protection of women from harassment as a part of their management policy and to form Inquiry Committee referred to in section 3.

(2) The management shall display copies of the Code in English as well as in language understood by the majority of employees at conspicuous place in the organization and the work place within six months of the commencement of this Act.

(3) On failure of an employer to comply with the provisions of this section any employee of an organization may file complaint in the Court of Session and on

having been found guilty the employer shall be liable to fine which may extend to one hundred thousand rupees but shall not be less than twenty-five thousand rupees.

# CODE OF CONDUCT FOR PROTECTION OF WOMEN FROM HARASSMENT AT THE WORKPLACE

- I. The Code provides a guideline for behavior of all employees, including management, owners to ensure a work environment free of harassment;
- II. “Harassment” means  
any unwelcome sexual advance,  
request for sexual favors  
other verbal or written communication  
physical conduct of a sexual nature,  
sexually demeaning attitudes, causing interference with work performance creating an intimidating, hostile or offensive work environment,

The above is unacceptable behavior in the organization and at the workplace, including in any interaction or situation that is linked to official work or official activity outside the office.