

Modern Coach Factory, Raebareli

Office of
the General Manager (P)

No.MCF/RBL/WEL/SH-Committee/2016


Dated 30.11.2021

NOTICE

Internal Complaint Committee on Sexual Harassment notified vide this office letter dated 30.03.2016 will continue to function temporarily till further orders with replacement of Late Shri R. P. Sharma, Ex Dy CME/Design by Shri R. L. Yadav, Dy CPO. The composition of Internal Complaint Committee on Sexual Harassment at MCF Raebareli is as follows:

SN	Name	Designation	Committee Status	Remarks
1.	Dr Sunita Gupta	Sr DMO	Chairperson	-
2.	Shri R L Yadav	Dy CPO	Member	-
3.	Miss Renuka Mishra	Tech-I/ Electrical	Member	-
4.	Smt Anita Srivastava	--	Member	Advocate and Social Worker as outsider Member.

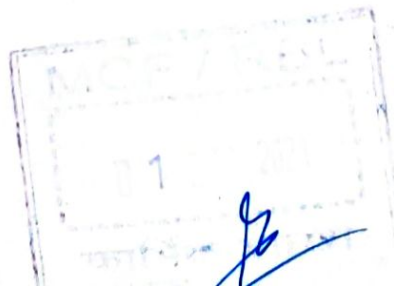
2. The committee is requested to conduct its regular meetings, submit returns and take actions in accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act-2013, Railway Board's letter No. E (D&A) 2015 GS1-1 dated 05.03.2015, and any other relevant instructions issued on the subject from time to time. A copy of the bare Act, and Railway Board letter dated 05.03.2015 is enclosed for the ready reference.


(Amar Nath Dube)

Principal Chief Personnel Officer

Copy to:

- (i) All Members as mentioned above.
- (ii) Secretary to GM for kind information of GM/MCF
- (iii) All PHODs/HODs with a request to comply with the instructions contained in the above quoted Act/letter.
- (iv) All Notice Boards
- (v) To be uploaded on the MCF website



**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

No. E(D&A) 2015 GS1-1

New Delhi, dated 05.03.2015

The General Manager(P)
All Indian Railways and
Production Units etc.
(As per standard list).

Sub: Alignment of Service Rules with the Sexual Harassment of Women at
Workplace (Prevention, Prohibition and Redressal) Act 2013.

.....

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 {SHWW(PPR) Act} has been promulgated on 22.04.2013. Further to the Act, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 {SHWW(PPR) Rules} were notified on 09.12.2013. The Act and the Rules framed thereunder provide a redressal mechanism for handling cases of sexual harassment at workplace. The Act and Rules are available at the website of the Ministry of Women and Child Development (wcd.nic.in) under Legislation/Acts.

2. The guidelines laid down by the Hon'ble Supreme Court in the case of Vishakha vs. State of Rajasthan, in the matter of sexual harassment of women at the workplace, were circulated on the Railways vide Railway Board's letter no. E(D&A) 97 GS1-4 dated 01.07.1998. These instructions, interalia, envisaged the constitution of a complaints committee for looking into complaints of sexual harassment and also specified the composition of such committee. These instructions also laid down guidelines regarding preventive steps, disciplinary/criminal proceedings against the offender, workers initiative to raise matters of sexual harassment at meetings, awareness etc. in context of sexual harassment of working women.

3. Subsequently, Railway Board's letter no. E(D&A) 2009 GS1-9 dated 20.01.2010 also laid down that the Complaints Committee shall be in existence at all times. Its composition along with names, contact details should be put on public display notice Board prominently in offices, workshops, stations where there is major concentration of staff. Changes in its composition, whenever necessary, should be made promptly and adequately publicized. It was also laid down that the composition of the Complaints committee be also posted on the websites of the concerned Ministries/Departments/Offices concerned. A copy of DoP&T's O.M. dated 03.08.2009 was also circulated alongwith the said letter which interalia laid down that the Committee should be effective and functional at all times and that it is desirable for the Committee to meet once a quarter, even if there is no live case and review preparedness to fulfill all requirements of the Vishakha judgment in the Department/Ministry/Organisation concerned.

4. Further, the proviso to Rule 9(2) of the RS (D&A) Rules, 1968 provides that the Complaints Committee established in each office under the Railways enquiring into such complaints shall be deemed to be the inquiring authority appointed by the disciplinary authority and the committee shall hold the inquiry in accordance with the procedure laid down in these rules, to the extent practicable.

5. The procedure being followed on the Railways for dealing with matters of sexual harassment of women at the workplace, has been modified by the SHWW(PPR) Act and the SHWW(PPR) Rules. The salient features of the Act and the Rules and the instructions issued by the Department of Personnel & Training, in this regard are as follows:-

5.1 Definition of the terms 'Sexual Harassment' and 'Workplace'

Section 2(n) and 2(o) of the Act define the terms 'Sexual Harassment' and 'Workplace' in relation to the Act. Rule 3C of the RS(Conduct) Rules has been amended vide Board's letter no. E(D&A) 2014 GS1-4 dated 12.01.2015, to incorporate these definitions in the RS(Conduct) Rules relating to sexual harassment of working women.

5.2 Constitution of Internal Complaints Committee

5.2.1 Section 4 of the Act lays down that:-

- (i) Every employer at a workplace shall constitute a committee known as the 'Internal Complaints Committee' for looking into the complaints of sexual harassment of working women in that organisation, 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.
- (ii) The members of the Internal Complaints Committee shall be nominated as follows:-
 - (a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees. Provided that where such senior level employee is not available the Presiding Officer shall be nominated from other offices or administrative units of the workplace. Provided further that in the case the other offices or administrative units 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 organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment;
 - (d) At least one-half of the total Members so nominated shall be women. This however does not imply that most or all of the members of the Complaint committee may be nominated from amongst women. In the interest of fairplay and equal opportunity, male members should also be included in such Committees so that there is no apprehension of bias of the Complaint Committee for either party.

5.2.2 The conditions related to membership of the Internal Complaints Committee are laid down in sub-sections (3) to (5) of section 4 of the Act. Rule 3 of the SHWW(PPR) Rules, 2013 lays down the fee or allowances payable to the member from amongst NGOs/Associations, referred to in para 5.2.1 (ii) (c) above.

5.2.3 Railways etc. may ensure that the Internal Complaints Committees functional in their offices under their Railway etc., satisfy the conditions laid down in the Act. It may also be impressed upon the Complaints Committee to scrupulously follow the instructions contained in Board's letter no. E(D&A) 2009 GS1-9 dated 20.01.2010 relating to functioning of the Complaints Committee.

5.3 Complaint under the SHWW(PPR) Act

5.3.1 The salient features of the section 9 of the Act, relating to filing of complaints under the Act are as follows:-

- (i) The complaint of sexual harassment at the workplace can be made by an aggrieved woman to the Internal Complaints committee within 3 months of the incident (or where there is a series of incidents, within 3 months of the last such incident), provided further that this time limit can be extended by 3 months, for reasons recorded in writing, where the Committee is satisfied that circumstances were there which prevented the woman from filing a complaint within the said period. It is further laid down that where such complaint cannot be made in writing, the Committee shall render all reasonable assistance to the woman to make the complaint in writing.
- (ii) The legal heir of the woman or any other person, as prescribed in Rule 6 of the SHWW(PPR) Rules, 2013 may make the complaint, if the aggrieved woman is unable to do so herself on account of physical or mental incapacity or death or otherwise.
- (iii) If any complaint is received directly by the Internal Committee, the same shall be referred to the appropriate disciplinary authority and the Committee shall inquire into the complaint on the complaint being referred to it by the disciplinary authority.

5.4 Conciliation proceedings

The salient features of the section 10 of the Act, relating to conciliation proceedings, are as follows:-

- (i) The Internal Committee may before initiating inquiry under section 11 of the Act, and at the request of the aggrieved woman take steps to settle the matter between her and the charged official through conciliation, provided that no monetary settlement shall be made as a basis of conciliation.
- (ii) Where a settlement has been arrived at, the Internal Committee shall record the settlement and forward the same to the disciplinary authority to take action as specified in the recommendation.
- (iii) Where a settlement has been arrived as mentioned above, no further inquiry shall be conducted by the Internal Committee.

5.5 Inquiry into complaint

5.5.1 Section 11 of the Act lays down the mechanism of conducting an inquiry into the complaint. The salient features relating to conduct of inquiry are as follows:-

- (i) Subject to the provisions of section 10 of the Act, the Internal Committee shall conduct inquiry into the complaint as per service rules applicable to the charged official. Also where the aggrieved woman informs the Internal Committee that any term or condition of the settlement arrived at under section 10 has not been complied with by the charged official, the Internal Committee shall proceed to make an inquiry into the complaint. Provided further that where the parties are employees, the parties shall during the course of the inquiry be given an opportunity to be heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.
- (ii) The Committee will as far as practicable follow the procedures prescribed in Rule 9 of RS(D&A) Rules, 1968.
- (iii) For the purpose of making inquiry, the Internal Committee shall have the same powers as are vested in the civil court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:-
 - (a) summoning and enforcing the attendance of any person and examining him under oath;
 - (b) requiring the discovery and production of documents; and
 - (c) any other matter which may be prescribed.
- (iv) **The inquiry shall be completed by the Internal Committee within a period of 90 days.**

5.6 Recommendations of Internal committee during pendency of inquiry

Section 12 of the Act prescribes the action that can be taken by the Internal Committee during pendency of the inquiry, which are as follows:-

- (i) During the pendency of the inquiry, on a written request made by the aggrieved woman, the Internal Committee may recommend the competent authority on the Railway to-
 - (a) transfer the aggrieved woman or the charged official to any other workplace, or
 - (b) grant leave to the aggrieved woman up to a period of three months, provided that such leave shall be in addition to the leave she would be otherwise entitled.
 - (c) grant such other relief to the aggrieved woman as may be prescribed.
- (ii) On the recommendation of the Internal Committee as above, the employer shall implement the recommendations and send the report of such implementation to the Internal Committee.
- (iii) The other reliefs that may be granted to the complainant by the Internal Committee during the pendency of the inquiry are specified in Rule 8 of SHWW(PPR) Rules, 2013.

5.7 Inquiry report

As per section 13 of the Act, the following action will be taken on the inquiry report of the Complaints Committee:-

- (i) On completion of the inquiry, the Internal Committee shall provide a report of its findings to the disciplinary authority within ten days from the date of completion of inquiry and such report shall be made available to the concerned parties.
- (ii) Where the Internal Committee arrives at the conclusion that the allegation against the charged official has not been proved, it shall recommend to the disciplinary authority that no action is required in this matter.
- (iii) Where the Internal Committee arrives at the conclusion that the allegation against the charged official has been proved, it shall recommend to the disciplinary authority-
 - (a) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the charged official.
 - (b) to deduct, notwithstanding anything in the service rules applicable to the charged official, from the salary or wages of the charged official such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine in accordance with the provisions of Section 15 of the Act. Provided that in case the Railway is unable to make such deduction from the salary of the charged official due to his being absent from duty or cessation of employment it may direct to the charged official to pay such sum to the aggrieved woman. Provided further that in case the charged official fails to pay the sum, the Internal Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer. Such compensation awarded by the Internal Committee to the aggrieved woman or to her legal heirs shall not amount to penalty under Rule 6 of RS(D&A) Rules, 1968.
 - (c) The disciplinary authority shall act upon the recommendation within sixty days of its receipt by him.

Action is being taken to amend Rule 6 of RS(D&A) Rules to provide that such compensation will not amount to a penalty under Rule 6 of RS(D&A) Rules.

5.8 Punishment for false or malicious complaint and false evidence

Section 14 of the Act lays down that-

- (i) Where the Internal Committee arrives at a conclusion that the allegation against the charged official is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has



produced any forged or misleading document, it may recommend to the competent disciplinary authority to take action against the woman or the person who has made the complaint under section 9, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as laid down in Rule 10 of SHWW(PPR) Rules. Provided that mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant. Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

- (ii) Where the Internal Committee arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness to take action in accordance with the provisions of the service rules applicable to such witness.

5.9 Determination of compensation

Section 15 of the Act lays down that-

- (i) For the purpose of determining the sums to be paid to the aggrieved woman under section 13, the Internal Committee shall have regard to-
 - (a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
 - (b) the loss in the career opportunity due to the incident of sexual harassment;
 - (c) medical expenses incurred by the victim for physical and psychiatric treatment;
 - (d) income and financial status of the charged official;
 - (e) feasibility of such payment in lump sum or in instalments.

5.10 Prohibition of publication or making known contents or complaint and inquiry proceedings and penalty therefor

Section 16 & 17 of the Act lay down that-

- (i) Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, charged official and witnesses, any information relating to conciliation and inquiry proceedings, recommendation of the Internal committee and the action taken by the employer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner. Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to identification of the aggrieved woman and witnesses.



- (ii) Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendation or action to be taken under the provisions of this Act, contravenes the provisions of Section 16 of the Act, he shall be liable for penalty in accordance with the provisions of the service rules applicable to him.

5.11 Appeal

Section 18 of the Act provides that-

- (i) Any person aggrieved from the recommendations made under section 13(2) or clauses (i) or (ii) of section 13(3) or sub-sections (1) or (2) of section 14 or section 17 or non-implementation of such recommendations, may prefer an appeal to the Court or Tribunal in accordance with the provisions of service rules applicable to the said person. The appeal shall be preferred within a period of ninety days of the recommendations.

5.12 Duties of the employer

Section 19 to the Act lays down that the employer shall-

- (i) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- (ii) 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;
- (iii) organize workshops and awareness programs at regular intervals for sensitizing the employees with the provisions of the Act and orientation programs for the members of the Internal Committee in the manner as may be prescribed;
- (iv) provide necessary facilities to the Internal Committee for dealing with the complaint and conducting an inquiry;
- (v) assist in securing the attendance of the charged official and witnesses before the Internal Committee;
- (vi) make available such information to the Internal Committee as it may require having regard to the complaint made under section 9(1);
- (vii) 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;
- (viii) 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;
- (ix) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;



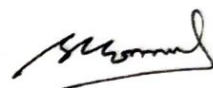
- (x) monitor the timely submission of report by the Internal Committee.

5.13 Miscellaneous provisions

- (i) In terms of section 21 of the Act, the Internal Committee shall in each calendar year prepare, an annual report as per the provisions of Rule 14 of the SHWW(PPR) Rules, 2013, and submit the same to the employer.
- (ii) In terms of section 22 of the Act, the employer shall include in its report the number of cases filed, if any, and their disposal under the Act, in the annual report of his organization.

6. The above provisions may be brought to the notice of all officers and staff on the Railways.

7. Hindi version will follow. Please acknowledge receipt.



(S. Modi)
Dy. Director Estt. (D&A)
Railway Board

भारत सरकार (GOVERNMENT OF INDIA)
रेल मंत्रालय (MINISTRY OF RAILWAYS)
रेलवे बोर्ड (RAILWAY BOARD)

सं. ई (डी एंड ए) 2015 जीएस1-1

नई दिल्ली, दिनांक 05.03.2015

महाप्रबंधक (कार्मिक),
सभी भारतीय रेलें और
उत्पादन इकाइयां आदि (डाक सूची के अनुसार)

**विषय : सेवा नियमों को महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोष)
अधिनियम, 2013 के साथ संबद्ध करना।**

महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोष) अधिनियम, 2013, 22.04.2013 को जारी किया गया था। इस अधिनियम के क्रम में आगे 09.12.2013 को महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोष) नियम, 2013 अधिसूचित किया गए हैं। यह अधिनियम तथा इसके अंतर्गत बनाए गए नियम कार्यस्थल पर लैंगिक उत्पीड़न के मामलों के संबंध में एक प्रतितोष तंत्र प्रदान करते हैं। यह अधिनियम और नियम, महिला एवं बाल विकास मंत्रालय की वेबसाइट (wcd.nic.in) पर Legislation/Act के अंतर्गत उपलब्ध हैं।

2. कार्यस्थल पर महिलाओं के लैंगिक उत्पीड़न के संबंध में विशाखा बनाम राजस्थान राज्य के मामले में माननीय उच्चतम न्यायालय द्वारा निर्धारित मार्गनिर्देश रेलवे बोर्ड के दिनांक 01.07.1998 के पत्र सं.ई (डीएंडए) 97 जीएस1-4 के तहत रेलों को परिपत्रित किए गए थे। इन अनुदेशों में अन्य बातों के साथ-साथ लैंगिक उत्पीड़न की शिकायतों की जांच करने के लिए एक समिति गठित करने की बात कही गई है और इनमें इस प्रकार की समितियों का कम्पोजिशन भी विनिर्दिष्ट किया गया है। इन अनुदेशों में कामगार महिलाओं के लैंगिक उत्पीड़न के संबंध में निवारक उपाय करने, दोषी के विरुद्ध अनुशासनिक/आपराधिक कार्रवाई करने, बैठकों में लैंगिक उत्पीड़न के मामलों को उठाने के संबंध में कामगारों की पहल और उनमें जागरूकता के संबंध में मार्गनिर्देश निर्धारित किए गए हैं।

3. बाद में, रेलवे बोर्ड के दिनांक 20.01.2010 के पत्र सं. ई (डी एंड ए) 2009 जीएस1-9 में यह भी निर्धारित किया गया कि ये शिकायत समितियाँ हर समय विद्यमान रहेंगी। कार्यालयों, कारखानों, स्टेशनों पर जहाँ कर्मचारियों की अधिकता होती है, सार्वजनिक प्रदर्श नोटिस बोर्डों पर नाम तथा संपर्क के ब्यौरे के साथ-साथ इसका कम्पोजिशन दिया जाना चाहिए। इसके कम्पोजिशन में जब कभी परिवर्तन करने की आवश्यकता हो तब ऐसे परिवर्तन तत्काल किए जाने चाहिए तथा इसका पर्याप्त रूप से प्रचार किया जाना चाहिए। यह भी निर्धारित किया गया था कि शिकायत समिति के कम्पोजिशन को संबंधित मंत्रालयों/विभागों/कार्यालयों की वेबसाइट पर भी पोस्ट किया जाए। उक्त पत्र के साथ कार्मिक एवं प्रशिक्षण विभाग के दिनांक 03.08.2009 के कार्यालय जापन की एक प्रतिलिपि भी परिपत्रित की गई थी, जिसमें अन्य बातों के साथ-साथ यह उल्लेख किया गया है कि इस समिति को हर समय प्रभावी तथा कार्यात्मक अवस्था में रहना चाहिए और इस समिति के लिए यह वांछनीय है कि यदि सामने कोई मामला न भी हो तो भी

विशाखा मामले के निर्णय की सभी जरूरतों को पूरा करने के लिए संबंधित विभाग/मंत्रालय/संगठन में की गई तैयारियों की समीक्षा करने के लिए प्रत्येक तीन महीने में एक बार उसकी बैठक हो।

4. इसके अलावा, रेल सेवक (अनुशासन एवं अपील) नियम, 1968 के नियम 9(2) के परन्तुक में यह प्रावधान है कि इस प्रकार की शिकायतों की जांच करने के लिए रेलवे के अंतर्गत प्रत्येक कार्यालय में स्थापित शिकायत समिति को अनुशासनिक प्राधिकारी द्वारा नियुक्त जांच प्राधिकारी माना जाएगा और यह समिति जहाँ तक व्यावहारिक हो इन नियमों में निर्धारित प्रक्रिया के अनुसार जांच करेगी।

5. रेलों पर महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न के मामलों पर कार्रवाई करने की प्रक्रिया को महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोष) अधिनियम और महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोष) नियम के अनुसार संशोधित किया गया है। इस अधिनियम और इन नियमों तथा इस संबंध में कार्मिक एवं प्रशिक्षण विभाग द्वारा जारी अनुदेशों की मुख्य-मुख्य बातें इस प्रकार हैं:-

5.1 'लैंगिक उत्पीड़न' और 'कार्यस्थल' शब्दों की परिभाषा

अधिनियम की धारा 2(एन) और 2 (ओ) में अधिनियम के संदर्भ में 'लैंगिक उत्पीड़न' और 'कार्यस्थल' शब्दों की परिभाषा दी गई है। रेल सेवक (आचरण) नियमों के नियम 3-सी में बोर्ड के दिनांक 12.01.2015 के पत्र सं. ई(डीएंडए) 2014 जीएस1-4 के माध्यम से संशोधन किया गया है ताकि रेल सेवक (आचरण) नियमों में कामगार महिलाओं के लैंगिक उत्पीड़न से संबंधित इन परिभाषाओं को इनमें समाहित किया जा सके।

5.2 आंतरिक शिकायत समिति का गठन

5.2.1 अधिनियम की धारा 4 में प्रावधान है कि :

(i) प्रत्येक नियोक्ता कार्यस्थल पर उस संगठन की कामगार महिलाओं की लैंगिक उत्पीड़न की शिकायतों की जांच करने के लिए एक समिति का गठन करेगा जिसे 'आंतरिक शिकायत समिति' कहा जाएगा, परन्तु जहाँ कार्यस्थल के कार्यालय अथवा प्रशासनिक यूनिट अलग-अलग स्थानों पर स्थित हों अथवा प्रखण्ड अथवा उपप्रखण्ड स्तर पर स्थित हों तो ऐसी स्थिति में सभी प्रशासनिक यूनिटों अथवा कार्यालयों में आंतरिक समिति गठित की जाएगी।

(ii) आंतरिक शिकायत समिति के सदस्य निम्नानुसार नामित किए जाएंगे :

(क) पीठासीन अधिकारी, कार्यस्थल पर तैनात कर्मचारियों में से कोई वरिष्ठ स्तर की महिला कार्मिक होगी। परन्तु जहाँ वरिष्ठ स्तर की ऐसी कार्मिक उपलब्ध न हो, तो पीठासीन अधिकारी को कार्यस्थल पर स्थित अन्य कार्यालयों अथवा प्रशासनिक यूनिटों से नामित किया जाएगा। आगे यह भी कि अन्य कार्यालयों अथवा प्रशासनिक यूनिटों में भी वरिष्ठ स्तर की कोई महिला कार्मिक न होने की स्थिति में पीठासीन अधिकारी को उसी नियोक्ता के अन्य कार्यस्थल अथवा संगठन के अन्य विभाग से नामित किया जाएगा।



- (ख) कर्मचारियों में से कम से कम दो सदस्य। इसके लिए प्राथमिकता ऐसे कर्मचारियों को दी जानी चाहिए जो महिलाओं के हितों के प्रति प्रतिबद्ध हों अथवा जिन्हें सामाजिक कार्य का अनुभव हो अथवा जिन्हें कानून का ज्ञान हो;
- (ग) ऐसे गैर-सरकारी संगठनों अथवा एसोसिएशनों, जो महिलाओं के हितों के प्रति प्रतिबद्ध हों से एक सदस्य, अथवा कोई ऐसा व्यक्ति जो लैंगिक उत्पीड़न से संबंधित मुद्दों से परिचित हो;
- (घ) इस प्रकार नामित किए गए कुल सदस्यों में से कम से कम आधे सदस्य, महिलाएँ होंगी। बहरहाल, इसका आशय यह नहीं है कि शिकायत समिति के अधिकांश अथवा सभी सदस्यों को महिलाओं में से ही नामित किया जाए। न्याय तथा बराबरी का मौका देने के लिए ऐसी समितियों में पुरुष सदस्यों को भी शामिल किया जाना चाहिए ताकि ऐसी शिकायत समिति का किसी पक्ष की ओर झुकाव होने की आशंका न रहे।

5.2.2 आन्तरिक शिकायत समिति की सदस्यता से संबंधित प्रावधान इस अधिनियम की धारा 4 की उपधारा (3) से (5) में दी गई हैं। महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोष) नियम, 2013 के नियम 3 में ऊपर पैरा 5.2.1(ii) (ग) में उल्लिखित गैर-सरकारी संगठनों/एसोसिएशनों से लिए गए सदस्य को देय शुल्क अथवा भत्ते का उल्लेख किया गया है।

5.2.3 रेलें आदि यह सुनिश्चित करें कि उनकी रेलवे आदि के अंतर्गत उनके कार्यालयों में कार्यरत आंतरिक शिकायत समितियाँ, इस अधिनियम में दिए गए प्रावधानों के अनुसार हों। शिकायत समितियों को निर्देश दिया जाए कि वे शिकायत समिति के कार्यों के संबंध में बोर्ड के दिनांक 20.01.2010 के पत्र सं. ई (डी एंड ए) 2009 जीएस 1-9 में निहित अनुदेशों का पूरी तरह पालन करें।

5.3 महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोष) अधिनियम के अंतर्गत शिकायत

5.3.1 इस अधिनियम के अंतर्गत शिकायतों को दायर करने के सम्बन्ध में अधिनियम की धारा 9 की मुख्य-मुख्य विशेषताएं इस प्रकार हैं:

- (i) पीड़ित महिला द्वारा कार्यस्थल पर लैंगिक उत्पीड़न की शिकायत घटना के 3 माह के भीतर (अथवा जहाँ घटनाएं श्रृंखलाबद्ध तरीके से हों ऐसे मामले में ऐसी अंतिम घटना के 3 माह के भीतर) आन्तरिक शिकायत समिति को की जा सकती है। परंतु जहाँ यह समिति इस बात से संतुष्ट हो कि ऐसी परिस्थितियाँ थीं, जिन्होंने उक्त अवधि के भीतर महिला को शिकायत दायर करने से रोका तो ऐसी स्थिति में कारणों को लिखित में दर्ज करते हुए इस समय-सीमा को 3 माह बढ़ाया जा सकता है। आगे यह भी निर्धारित किया गया है कि जहाँ ऐसी शिकायतें लिखित में नहीं की जा सकती हैं वहाँ यह समिति लिखित में शिकायत करने के लिए महिला को सभी समुचित सहायता प्रदान करेगी।

- (ii) यदि पीड़ित महिला शारीरिक अथवा मानसिक असक्षमता अथवा उसकी मृत्यु हो जाने अथवा अन्यथा स्वयं शिकायत करने में असमर्थ हो तो महिला का कानूनी उत्तराधिकारी अथवा महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोष) नियम 2013 के नियम 6 में यथा निर्धारित कोई अन्य व्यक्ति शिकायत कर सकता है।
- (iii) यदि आंतरिक शिकायत समिति को कोई शिकायत सीधे प्राप्त होती है तो उसे उपयुक्त अनुशासनिक प्राधिकारी को भेजा जाएगा और समिति, अनुशासनिक प्राधिकारी द्वारा इसे भेजे जाने वाली शिकायतों की ही जांच करेगी।

5.4 सुलह कार्यवाही :

सुलह की कार्यवाही के संबंध में अधिनियम की धारा 10 की मुख्य विशेषताएं निम्नानुसार हैं :

- (i) आंतरिक समिति, अधिनियम की धारा 11 के अंतर्गत जांच शुरू करने से पूर्व और पीड़ित महिला के अनुरोध पर सुलह के माध्यम से उसके और आरोपी कर्मचारी के बीच मामले को सुलझाने के लिए कदम उठाएगी, परन्तु सुलह का आधार कोई मौद्रिक समाधान नहीं होगा।
- (ii) जहाँ मामले को सुलझा लिया गया हो ऐसी स्थिति में आंतरिक समिति उस समाधान को दर्ज करेगी और सिफ़ारिश में यथा विनिर्दिष्ट कार्रवाई करने के लिए उसे अनुशासनिक प्राधिकारी को अग्रेषित कर देगी।
- (iii) जहाँ ऊपर उल्लिखित विधि से मामले को सुलझा लिया गया हो, ऐसे मामलों में आंतरिक समिति द्वारा आगे कोई जांच नहीं की जाएगी।

5.5 शिकायत की जांच

5.5.1 इस अधिनियम की धारा 11 में शिकायत की जांच करने के संबंध में प्रक्रिया निर्धारित की गई है। जांच करने से संबंधित महत्वपूर्ण प्रावधान निम्नानुसार हैं:-

- (i) अधिनियम की धारा 10 के प्रावधानों के अधीन, आंतरिक समिति, आरोपित पदाधिकारी के लिए लागू सेवा नियमों के अनुसार शिकायत की जांच करेगी। इसके अलावा, यदि पीड़ित महिला आंतरिक समिति को सूचित करती है कि आरोपित पदाधिकारी द्वारा धारा 10 के अंतर्गत की गई सुलह के किसी निबंधन अथवा शर्त का पालन नहीं किया है तो आंतरिक समिति शिकायत की जांच करने की प्रक्रिया आरंभ करेगी। इसके अलावा, यदि पार्टियां कर्मचारी हों, तो पार्टियों को जांच के दौरान सुनवाई के लिए एक अवसर दिया जाएगा और जांच परिणाम की एक प्रति दोनों पार्टियों को उपलब्ध कराई जाएगी ताकि वे समिति के समक्ष परिणाम के विरुद्ध अभ्यावेदन प्रस्तुत कर सकें।
- (ii) समिति, जहां तक व्यावहारिक हो, रेल सेवक (अनुशासन एवं अपील) नियम, 1968 के नियम 9 में निर्धारित प्रक्रियाओं का पालन करेगी।

(iii) जांच करने के प्रयोजन के लिए आंतरिक समिति के पास वहीं शक्तियां होंगी जो निम्नलिखित मामलों के संबंध में किसी मुकदमे की सुनवाई करते समय सिविल प्रक्रिया संहिता, 1908 के अंतर्गत सिविल न्यायालय के पास होती हैं, अर्थात्

(क) किसी व्यक्ति को समन भेजना और उपस्थित होने के लिए बाध्य करना और उसे शपथ दिलाकर जांच करना;

(ख) दस्तावेजों को खोजने और प्रस्तुत करने का आदेश देना; और

(ग) कोई अन्य विषय जो निर्धारित किया जाए।

(iv) आंतरिक समिति द्वारा जांच 90 दिनों के भीतर पूरी की जाएगी।

5.6 जांच लंबित रहने के दौरान आंतरिक समिति की सिफारिशें

अधिनियम की धारा 12 में उस कार्रवाई की व्यवस्था है जो जांच लंबित रहने के दौरान आंतरिक समिति द्वारा जी जा सकती है, जो निम्नानुसार है:-

(i) जांच लंबित रहने के दौरान पीड़ित महिला द्वारा लिखित में अनुरोध किए जाने पर आंतरिक समिति, रेलवे के सक्षम प्राधिकारी से निम्नलिखित सिफारिश कर सकती है:-

(क) पीड़ित महिला या आरोपित पदाधिकारी का किसी दूसरे कार्यस्थल पर स्थानांतरण करना, या

(ख) पीड़ित महिला को तीन माह तक की छुट्टी प्रदान करना, बशर्ते कि इस प्रकार की छुट्टी उन छुट्टियों के अलावा हो, जिनकी वह अन्यथा हकदार है।

(ग) पीड़ित महिला को इस प्रकार की कोई अन्य राहत प्रदान करना जिसका प्रावधान हो।

(ii) उपर्युक्त के अनुसार आंतरिक समिति की सिफारिश प्राप्त होने पर नियोक्ता सिफारिशों को क्रियान्वित करेगा और इस प्रकार के क्रियान्वयन की रिपोर्ट आंतरिक समिति को भेजेगा।

(iii) जांच लंबित रहने के दौरान शिकायतकर्ता को आंतरिक समिति द्वारा दी जा सकने वाली अन्य राहतों को महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न(निवारण, प्रतिबंध और प्रतितोष) नियम, 2013 के नियम 8 में विनिर्दिष्ट किया गया है।

5.7 जांच रिपोर्ट

इस अधिनियम की धारा 13 के अनुसार, शिकायत समिति की जांच रिपोर्ट पर निम्नलिखित कार्रवाई की जाएगी:-

(i) जांच पूरी होने पर आंतरिक समिति जांच पूरी होने की तारीख से दस दिन के भीतर अनुशासनिक प्राधिकारी को अपने निष्कर्षों के बारे में रिपोर्ट देगी और उस रिपोर्ट को संबंधित पार्टियों को उपलब्ध कराया जाएगा।

- (ii) जिस मामले में आंतरिक समिति इस निष्कर्ष पर पहुँचती है कि आरोपित पदाधिकारी के विरुद्ध लगाया गया आरोप सिद्ध नहीं होता है तो वह अनुशासनिक प्राधिकारी को सिफारिश करेगी कि इस मामले में कोई कार्रवाई करने की आवश्यकता नहीं है।
- (iii) जिस मामले में आंतरिक समिति इस निष्कर्ष पर पहुँचती है कि आरोपित पदाधिकारी के विरुद्ध लगाया गया आरोप सिद्ध होता है तो वह अनुशासनिक प्राधिकारी को सिफारिश करेगी कि:-
- (क) आरोपित पदाधिकारी के लिए लागू सेवा नियमों के प्रावधानों के अनुसार कदाचार के रूप में लैंगिक उत्पीड़न के लिए कार्रवाई करना।
- (ख) आरोपित पदाधिकारी के लिए लागू सेवा नियमों में किसी बात के होने के बावजूद आरोपित पदाधिकारी के वेतन या मजदूरी से ऐसी राशि काटना जिसे वह अधिनियम की धारा 15 के प्रावधानों के अनुसार पीड़ित महिला या उसके कानूनी उत्तराधिकारी को भुगतान करने के लिए पर्याप्त समझे। यदि रेलवे आरोपित पदाधिकारी के झूठी से अनुपस्थित होने अथवा नौकरी समाप्त होने के कारण उसके वेतन से इस प्रकार की कटौती करने में असमर्थ हो तो वह आरोपित पदाधिकारी को पीड़ित महिला को वह राशि भुगतान करने का निर्देश दे सकती है। परन्तु, यदि आरोपित पदाधिकारी उस राशि का भुगतान करने में विफल होता है तो आंतरिक समिति संबंधित जिला अधिकारी को भू-राजस्व के बकाए के रूप में उस राशि की वसूली करने का आदेश दे सकती है। आंतरिक समिति द्वारा पीड़ित महिला अथवा उसके कानूनी उत्तराधिकारी को प्रदान की गई इस प्रकार की मुआवजे की राशि को रेल सेवक(अनुशासन एवं अपील) नियम, 1968 के नियम 6 के अंतर्गत शास्ति नहीं माना जाएगा।
- (ग) अनुशासनिक प्राधिकारी द्वारा सिफारिश प्राप्त होने के साठ दिन के भीतर उस पर कार्रवाई की जाएगी।

यह प्रावधान करने के लिए कि इस प्रकार दिए जाने वाले मुआवजे को रेल सेवक(अनुशासन एवं अपील) नियम के नियम 6 के अंतर्गत शास्ति नहीं माना जाएगा, रेल सेवक(अनुशासन एवं अपील) नियम के नियम 6 में संशोधन करने की कार्रवाई की जा रही है।

5.8 झूठी अथवा द्वेषपूर्ण शिकायत अथवा झूठे साक्ष्य के लिए दण्ड

इस अधिनियम की धारा 14 में यह प्रावधान है कि:-

- (i) जिस मामले में आंतरिक समिति इस निष्कर्ष पर पहुँचती है कि आरोपित पदाधिकारी के विरुद्ध लगाया गया आरोप द्वेषपूर्ण है अथवा पीड़ित महिला या शिकायत करने वाले किसी अन्य व्यक्ति ने शिकायत की है, बावजूद यह जानते हुए कि शिकायत झूठी है अथवा पीड़ित महिला या शिकायत करने वाले किसी अन्य व्यक्ति ने जाली अथवा भ्रामक दस्तावेज पेश किया है तो वह सक्षम अनुशासनिक प्राधिकारी से उस महिला अथवा उस व्यक्ति, जिसने धारा 9 के अंतर्गत शिकायत की है, के विरुद्ध उसके लिए लागू सेवा नियमों के प्रावधानों के अनुसार या जहां ऐसा कोई सेवा नियम मौजूद नहीं है वहां महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोष) नियम के नियम 10 में यथा निर्धारित विधि से कार्रवाई करने की सिफारिश कर सकती है। परन्तु मात्र शिकायत को सिद्ध न कर पाने अथवा पर्याप्त प्रमाण पेश करने में असमर्थ होने की स्थिति में शिकायतकर्ता के विरुद्ध कार्रवाई करने की आवश्यकता नहीं है। परन्तु आगे यह



भी कि किसी प्रकार की कार्रवाई की सिफारिश करने से पूर्व निर्धारित प्रक्रिया के अनुसार जांच करने के बाद शिकायतकर्ता की ओर से द्वेषपूर्ण इरादे से शिकायत की गई थी, यह सिद्ध किया जाएगा।

- (ii) जिस मामले में आंतरिक समिति इस निष्कर्ष पर पहुँचती है कि जांच के दौरान किसी गवाह ने झूठा साक्ष्य दिया या कोई जाली अथवा भ्रामक दस्तावेज पेश किया तो वह, उस गवाह के नियोक्ता से उस गवाह के लिए लागू सेवा नियमों के प्रावधानों के अनुसार कार्रवाई करने की सिफारिश कर सकती है।

5.9 मुआवजे का निर्धारण

इस अधिनियम की धारा 15 में यह प्रावधान है कि:-

- (i) पीड़ित महिला को धारा 13 के अंतर्गत भुगतान की जाने वाली राशि का निर्धारण करने के प्रयोजन के लिए आंतरिक समिति को निम्नलिखित तथ्यों पर विचार करना होगा:
- (क) पीड़ित महिला के मानसिक आघात, कष्ट, क्षति और भावनात्मक पीड़ा;
- (ख) लैंगिक उत्पीड़न की घटना के कारण कैरियर के अवसर की हानि;
- (ग) शारीरिक और मनोरोग चिकित्सा के लिए पीड़ित द्वारा किया गया चिकित्सा व्यय;
- (घ) आरोपित पदाधिकारी की आय एवं वित्तीय स्थिति;
- (ङ) इस प्रकार का भुगतान एकमुश्त अथवा किश्तों में करने की व्यवहार्यता।

5.10 शिकायत और जांच कार्यवाही की विषय-वस्तु का प्रकाशन अथवा सार्वजनिक करने का निषेध और उसके लिए दण्ड

इस अधिनियम की धारा 16 और 17 में यह प्रावधान है कि:

- (i) सूचना का अधिकार अधिनियम, 2005 में निहित किसी भी बात के बावजूद, धारा 9 के अंतर्गत की गई शिकायत की विषय-वस्तु, पीड़ित महिला, आरोपित पदाधिकारी और गवाहों की पहचान और पता और समझौता और जांच कार्यवाही से संबंधित किसी भी जानकारी, आंतरिक समिति की सिफारिश और इस अधिनियम के प्रावधानों के अंतर्गत नियोक्ता द्वारा की गई कार्रवाई को किसी भी प्रकार से प्रकाशित नहीं किया जाएगा एवं जनता, प्रेस और मीडिया को सूचित और जात नहीं कराया जाएगा। परन्तु, नाम, पता, पहचान या कोई अन्य ब्यौरा जिससे पीड़ित महिला और गवाहों की पहचान निरूपित हो, को प्रकट किए बिना इस अधिनियम के अंतर्गत लैंगिक उत्पीड़न के शिकार किसी भी व्यक्ति के प्रति न्याय के संबंध में सूचना का प्रसार किया जा सकता है।
- (ii) जिस मामले में कोई ऐसे व्यक्ति जिसे शिकायत, जांच या किसी सिफारिश अथवा इस अधिनियम के प्रावधानों के अंतर्गत की जाने वाली कार्रवाई करने या निपटाने का कार्य सौंपा गया हो, वह अधिनियम की धारा 16 के प्रावधानों की अवहेलना करता है तो वह उस पर लागू सेवा नियमों के प्रावधानों के अनुसार दण्ड का पात्र होगा।

5.11 अपील

इस अधिनियम की धारा 18 में यह प्रावधान है कि:

- (i) कोई भी व्यक्ति जो धारा 13(2) या धारा 13(3) के खण्ड (i) या (ii) या धारा 14 की उपधारा (1) या (2) या धारा 17 के अंतर्गत की गई सिफारिशों से अथवा इस प्रकार की सिफारिश को कार्यान्वित नहीं किए जाने से असंतुष्ट हो तो वह उक्त व्यक्ति के लिए लागू सेवा नियमों के प्रावधानों के अनुसार न्यायालय अथवा ट्रिब्यूनल में अपील पेश कर सकता है। यह अपील सिफारिश किए जाने के नब्बे दिन की अवधि के भीतर पेश की जाएगी।

5.12 नियोक्ता के कर्तव्य

इस अधिनियम की धारा 19 में यह प्रावधान है कि नियोक्ता-

- (i) कार्यस्थल पर सुरक्षित ढंग से कार्य का वातावरण प्रदान करेगा जिसमें कार्यस्थल पर संपर्क में आने वाले व्यक्तियों से सुरक्षा प्रदान करना शामिल है;
- (ii) कार्यस्थल के किसी ऐसे स्थान पर जो स्पष्ट रूप से दिखाई देता हो, लैंगिक उत्पीड़न के दण्डात्मक परिणामों और धारा 4 की उपधारा (1) के अंतर्गत आंतरिक समिति के गठित होने के आदेश को दर्शाएगा;
- (iii) कर्मचारियों को इस अधिनियम के प्रावधानों की जानकारी देने के लिए नियमित अंतराल पर वर्कशॉप आयोजित करेगा और जागरूकता कार्यक्रम चलाएगा और आंतरिक समिति के सदस्यों के लिए यथा निर्धारित विधि से अभिमुखी कार्यक्रम आयोजित करेगा;
- (iv) शिकायत पर कार्रवाई करने और जांच करने के लिए आंतरिक समिति को आवश्यक सुविधाएं मुहैया कराएगा;
- (v) आंतरिक समिति के समक्ष आरोपित पदाधिकारी और गवाहों की उपस्थिति सुनिश्चित करने में मदद करेगा;
- (vi) आंतरिक समिति को ऐसी सूचना उपलब्ध कराएगा जो धारा 9(1) के अंतर्गत की गई शिकायत के संबंध में प्राप्त करना अपेक्षित हो;
- (vii) यदि महिला भारतीय दण्ड संहिता अथवा उस समय प्रचलित किसी अन्य कानून के अंतर्गत अपराध के संबंध में शिकायत दर्ज कराना चाहती हो तो उसे इसके लिए सहायता प्रदान करेगा;
- (viii) अपराधी के विरुद्ध भारतीय दण्ड संहिता अथवा उस समय प्रचलित किसी अन्य कानून के अंतर्गत कार्रवाई करने के लिए प्रेरित करना, या यदि पीड़ित महिला चाहती हो जहाँ अपराधी कर्मचारी न हो, उस कार्यालय में जहाँ यौन उत्पीड़न की घटना घटी है;
- (ix) लैंगिक उत्पीड़न को सेवा नियमों के अंतर्गत कदाचार मानना और इस प्रकार के कदाचार के लिए कार्रवाई आरंभ करना;
- (x) आंतरिक समिति द्वारा समय पर रिपोर्ट प्रस्तुत करने को मॉनीटर करना;

5.13 विविध प्रावधान

- (i) इस अधिनियम की धारा 21 के अनुसार, आंतरिक समिति प्रत्येक कलेण्डर वर्ष में महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोष) नियम, 2013 के नियम 14 के प्रावधानों के अनुसार, एक वार्षिक रिपोर्ट तैयार करेगी और उसे नियोक्ता को प्रस्तुत करेगी।
- (ii) अधिनियम की धारा 22 के अनुसार, नियोक्ता अपने संगठन की वार्षिक रिपोर्ट में दायर किए गए मामलों की संख्या, यदि कोई हो, और अधिनियम के अंतर्गत उनके निपटान को शामिल करेगा।

6. उपर्युक्त प्रावधानों को रेलवे के सभी अधिकारियों और कर्मचारियों के ध्यान में लाया जाए।

शैलेंद्र मोदी

(एस. मोदी)

उप निदेशक स्या. (अ. एवं अ.)

रेलवे बोर्ड



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड I

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 18] नई दिल्ली, मंगलवार, अप्रैल 23, 2013/ वैशाख 3, 1935 (शक)
No. 18] NEW DELHI, TUESDAY, APRIL 23, 2013/ VAISAKHA 3, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 23rd April, 2013/Vaisakha 3, 1935 (Saka)

The following Act of Parliament received the assent of the President on the 22nd April, 2013, and is hereby published for general information:—

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

(No. 14 OF 2013)

[22nd April, 2013.]

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India,

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

Be it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement

1. (1) This Act may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "aggrieved woman" means—

(i) in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;

(ii) in relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

(b) "appropriate Government" means—

(i) in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly—

(A) by the Central Government or the Union territory administration, the Central Government;

(B) by the State Government, the State Government;

(ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;

(c) "Chairperson" means the Chairperson of the Local Complaints Committee nominated under sub-section (1) of section 7;

(d) "District Officer" means an officer notified under section 5;

(e) "domestic worker" means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part time or full time basis, but does not include any member of the family of the employer;

(f) "employee" means a person employed at a workplace for any work on regular, temporary, *ad hoc* or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;

(g) "employer" means—

(i) in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;

(ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.

Explanation.— For the purposes of this sub-clause “management” includes the person or board or committee responsible for formulation and administration of policies for such organisation;

(iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees;

(iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;

(h) “Internal Committee” means an Internal Complaints Committee constituted under section 4;

(i) “Local Committee” means the Local Complaints Committee constituted under section 6;

(j) “Member” means a Member of the Internal Committee or the Local Committee, as the case may be;

(k) “prescribed” means prescribed by rules made under this Act;

(l) “Presiding Officer” means the Presiding Officer of the Internal Complaints Committee nominated under sub-section (2) of section 4;

(m) “respondent” means a person against whom the aggrieved woman has made a complaint under section 9;

(n) “sexual harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:—

(i) physical contact and advances; or

(ii) a demand or request for sexual favours; or

(iii) making sexually coloured remarks; or

(iv) showing pornography; or

(v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

(o) “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;

(p) "unorganised sector" 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.

Prevention of sexual harassment.

3. (1) No woman shall be subjected to sexual harassment at any workplace.

(2) The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:—

- (i) implied or explicit promise of preferential treatment in her employment; or
- (ii) implied or explicit threat of detrimental treatment in her employment; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

CHAPTER II

CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

Constitution of Internal Complaints Committee.

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 at least 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) The 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.

CHAPTER III

CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

5. The appropriate Government may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act.

Notification of District Officer.

6. (1) Every District Officer shall constitute in the district concerned, a committee to be known as the "Local Complaints Committee" to receive complaints of sexual harassment from establishments where the Internal Complaints Committee has not been constituted due to having less than ten workers or if the complaint is against the employer himself.

Constitution and jurisdiction of Local Complaints Committee

(2) The District Officer shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality in the urban area, to receive complaints and forward the same to the concerned Local Complaints Committee within a period of seven days.

(3) The jurisdiction of the Local Complaints Committee shall extend to the areas of the district where it is constituted.

7. (1) The Local Complaints Committee shall consist of the following members to be nominated by the District Officer, namely:--

Composition, tenure and other terms and conditions of Local Complaints Committee

(a) a Chairperson to be nominated from amongst the eminent women in the field of social work and committed to the cause of women;

(b) one Member to be nominated from amongst the women working in block, taluka or tehsil or ward or municipality in the district;

(c) two Members, of whom at least one shall be a woman, to be nominated from amongst such non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed:

Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge:

Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time;

(d) the concerned officer dealing with the social welfare or women and child development in the district, shall be a member *ex officio*.

(2) The Chairperson and every Member of the Local Committee shall hold office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Officer.



- (3) Where the Chairperson or any Member of the Local Complaints 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) 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 Chairperson 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.

(4) The Chairperson and Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.

Grants and
audit

8. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the State Government grants of such sums of money as the Central Government may think fit, for being utilised for the payment of fees or allowances referred to in sub-section (4) of section 7.

(2) The State Government may set up an agency and transfer the grants made under sub-section (1) to that agency.

(3) The agency shall pay to the District Officer, such sums as may be required for the payment of fees or allowances referred to in sub-section (4) of section 7.

(4) The accounts of the agency referred to in sub-section (2) shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the person holding the custody of the accounts of the agency shall furnish, to the State Government, before such date, as may be prescribed, its audited copy of accounts together with auditors' report thereon.

CHAPTER IV

COMPLAINT

Complaint of
sexual
harassment

9. (1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

Conciliation

10. (1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation:

Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where a settlement has been arrived at under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (1), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

11. (1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if *prima facie* case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code, and any other relevant provisions of the said Code where applicable:

Inquiry into
complaint

45 of 1860.

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

45 of 1860.

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code, the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

5 of 1908

(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:---

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents; and

(c) any other matter which may be prescribed.

(4) The inquiry under sub-section (1) shall be completed within a period of ninety days.

CHAPTER V

INQUIRY INTO COMPLAINT

12. (1) During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Committee or the Local Committee, as the case may be, may recommend to the employer to

Action during
pendency of
inquiry

(a) transfer the aggrieved woman or the respondent to any other workplace; or

- (b) grant leave to the aggrieved woman up to a period of three months; or
 (c) grant such other relief to the aggrieved woman as may be prescribed.

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.

Inquiry report.

13. (1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be—

(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;

(ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:

Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman:

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or, as the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

(4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

14. (1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

Punishment
for false or
malicious
complaint and
false evidence

(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 securing 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; 45 of 1860

(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; 45 of 1860

(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.

CHAPTER VII

DUTIES AND POWERS OF DISTRICT OFFICER

Duties and powers of District Officer

20. The District Officer shall, --

(a) monitor the timely submission of reports furnished by the Local Committee;

(b) take such measures as may be necessary for engaging non-governmental organisations for creation of awareness on sexual harassment and the rights of the women.

CHAPTER VIII

MISCELLANEOUS

Committee to submit annual report

21. (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.

Employer to include information in annual report

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

Appropriate Government to monitor implementation and maintain data

23. The appropriate Government shall monitor the implementation of this Act and maintain data on the number of cases filed and disposed of in respect of all cases of sexual harassment at workplace.

Appropriate Government to take measures to publicise the Act

24. The appropriate Government may, subject to the availability of financial and other resources, --

(a) develop relevant information, education, communication and training materials, and organise awareness programmes, to advance the understanding of the public of the provisions of this Act providing for protection against sexual harassment of woman at workplace,

(b) formulate orientation and training programmes for the members of the Local Complaints Committee.

25. (1) The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace to do so, by order in writing,—

Power to call for information and inspection of records

(a) call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require;

(b) authorise any officer to make inspection of the records and workplace in relation to sexual harassment, who shall submit a report of such inspection to it within such period as may be specified in the order.

(2) Every employer and District Officer shall produce on demand before the officer making the inspection all information, records and other documents in his custody having a bearing on the subject matter of such inspection.

26. (1) Where the employer fails to—

(a) constitute an Internal Committee under sub-section (1) of section 4;

(b) take action under sections 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,

Penalty for non-compliance with provisions of Act.

he shall be punishable with fine which may extend to fifty thousand rupees.

(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.

27. (1) No court shall take cognizance of any offence punishable under this Act or any rules made thereunder, save on a complaint made by the aggrieved woman or any person authorised by the Internal Committee or Local Committee in this behalf.

Cognizance of offence by courts

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Every offence under this Act shall be non-cognizable.

28. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Act not in derogation of any other law.

29. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power of appropriate Government to make rules

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the fees or allowances to be paid to the Members under sub-section (1) of section 4;

(b) nomination of members under clause (c) of sub-section (1) of section 7;

(c) the fees or allowances to be paid to the Chairperson, and Members under sub-section (1) of section 7;

(d) the person who may make complaint under sub-section (2) of section 9;

(e) the manner of inquiry under sub-section (1) of section 11;

(f) the powers for making an inquiry under clause (c) of sub-section (2) of section 11;

(g) the relief to be recommended under clause (c) of sub-section (1) of section 12;

(h) the manner of action to be taken under clause (i) of sub-section (3) of section 13;

(i) the manner of action to be taken under sub-sections (1) and (2) of section 14;

(j) the manner of action to be taken under section 17;

(k) the manner of appeal under sub-section (1) of section 18;

(l) the manner of organising workshops, awareness programmes for sensitising the employees and orientation programmes for the members of the Internal Committee under clause (c) of section 19; and

(m) the form and time for preparation of annual report by Internal Committee and the Local Committee under sub-section (1) of section 21.

(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Any rule made under sub-section (4) of section 8 by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to
remove
difficulties

30. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

P.K. MALHOTRA,
Secy. to the Govt. of India

CORRIGENDA

THE PREVENTION OF MONEY-LAUNDERING (AMENDMENT) ACT, 2012

(2 of 2013)

At page 18, in line 2, for "Arts", read "Art".

At page 21, in line 14, for "Protection", read "(Protection)".

CORRIGENDUM

THE UNLAWFUL ACTIVITIES (PREVENTION) AMENDMENT ACT, 2012
(3 of 2013)

At page 6, in line 22, *for* "clause", *read* "clause".

CORRIGENDUM

THE BANKING LAWS (AMENDMENT) ACT, 2012
(4 of 2013)

At page 8, in line 29, *for* 'sections 30', *read* 'section 30',.

CORRIGENDUM

THE APPROPRIATION ACT, 2013
(9 of 2013)

At page 1, in the marginal heading to section 2, *for* "4715,54,00,000", *read* "49715,54,00,000".