

	<p>Comments or suggestions are invited on the following draft bill by 31st March, 2007. Comments/suggestions may be e-mailed to secy.wcd@nic.in or sent by post to Secretary, Government of India, Ministry of Women and Child Development, Shastri Bhawan, 'A' Wing, Dr. Rajendra Prasad Road, New Delhi - 110 001</p> <p style="text-align: center;">THE PROTECTION OF WOMEN AGAINST SEXUAL HARASSEMENT AT WORKPLACE BILL, 2007</p> <p style="text-align: center;">A BILL</p> <p>to provide for prevention and redressal of sexual harassment of women at workplace and for matters connected therewith or incidental thereto.</p> <p>BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:-</p>	
	<p>CHAPTER I PRILIMINARY</p>	
	<p>1. (1) This Act may be called the Protection of Women against Sexual Harassment at Workplace Act, 2007.</p> <p>(2) It extends to the whole of India.</p>	<p>Short title, extent and commencement.</p>

	<p>(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p>	
	<p>2. In this Act, unless the context otherwise requires,-</p> <p>(a) "aggrieved woman" means any woman employee against whom any act of sexual harassment is alleged to have been committed;</p> <p>(b) "appropriate Government" means in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly-</p> <p style="padding-left: 40px;">(i) by the Central Government or the Union territory administration, the Central Government;</p> <p style="padding-left: 40px;">(ii) by the State Government, the State Government.</p> <p>(c) "Chairperson" means the Chairperson of the Committee or of the District Committee, as the case may be;</p> <p>(d) "Committee" means an Internal Complaints Committee constituted under section 4;</p> <p>(e) "District Officer" means an officer appointed under section 5;</p> <p>(f) "employee" means a person employed at a workplace for any work on regular, temporary, ad-hoc or daily wage basis, either directly or by 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 domestic worker, a co-worker, a contract worker, probationer, trainee, apprentice or by any other name called;</p> <p>(g) "employer" means:-</p> <p style="padding-left: 40px;">(i) in relation to any department, organisation,</p>	<p>Definitions.</p>

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 clause (i), any person responsible for the management, supervision and control of the of the workplace;

(h) "Local Committee" means the Local Complaints Committee constituted under section 6;

(i) "member" means a member of the Committee or of the Local Committee, as the case may be;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "respondent" means a person against whom a complaint has been made under section 7;

(l) "Workplace" means:-

(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, unit or service provider carrying on commercial, professional, vocational, educational, industrial or financial activities including production, supply, sale, distribution or service;

(iii) a house or dwelling place;

(iv) and includes any place visited by the employee arising out of, or during and in the course of, employment;

	<p>(v) "Unorganized Sector" which shall come within the meaning of "workplace", means all private unincorporated enterprises including own account enterprises engaged in any agriculture, industry, trade and/or business and includes sectors as mentioned in the schedule, being illustrative.</p>	
	<p>3. No woman employee at a work place shall be subjected to sexual harassment including unwelcome sexually determined behavior, physical contact, advances, sexually coloured remarks, showing pornography, sexual demand, request for sexual favours or any other unwelcome conduct of sexual nature whether verbal, textual, physical, graphic or electronic or by any other actions, which may include, -</p> <p>(i) implied or overt promise of preferential treatment in employment; or</p> <p>(ii) implied or overt threat of detrimental treatment in employment; or</p> <p>(iii) implied or overt threat about the present or future employment status;</p> <p>(iv) conduct which interferes with work or creates an intimidating or offensive or hostile work environment; or</p> <p>(iv) humiliating conduct constituting health and safety problems.</p>	<p>Prevention of sexual harassment at workplace.</p>
	<p>CHAPTER II</p> <p>CONSTITUTION OF COMMITTEES</p>	
<p>Constitution of Internal Complaints Committee.</p>	<p>4. (1) For the purpose of this Act, every employer of a work place shall constitute, by an Office Order in writing, an Internal Complaints Committee.</p> <p>Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Committee shall be constituted at all administrative units or offices.</p> <p>(2) The Committee shall consist of the following members namely:-</p> <p>(a) a Chairperson, from amongst employees, who shall be a senior level</p>	

	<p>woman, committed to the cause of women. In case a senior level woman employee is not available, the Chairperson shall be appointed from a sister organization or a non-governmental organization;</p> <p>(b) not less than two members from amongst employees committed to the cause of women or who have had experience in social work; and</p> <p>(c) one member from amongst such non-governmental organisations or associations or other interests committed to the cause of women, as may be specified:</p> <p>Provided that atleast fifty per cent of the members so nominated shall be women.</p> <p>(3) The Chairperson and every member of the Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified.</p> <p>(4) The Chairperson and members of the Committee shall be entitled to such allowances or remuneration as may be prescribed.</p> <p>(5) Where the Chairperson or any member of the Committee contravenes the provisions of section 14, 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 appointment in accordance with the provisions of this section.</p>	
	<p>5. The appropriate Government may appoint a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to carry out the functions under this Act.</p>	<p>Appointment of District Officer</p>
	<p>6. (1) Where at a workplace, constitution of the Committee is not possible or practicable, or where the complaint is against the employer himself, the District Officer may, constitute at every Block, a Local Complaints Committee.</p> <p>(2) The Local Committee shall consist of the following members:-</p> <p>(a) a chairperson to be appointed by the appropriate Government from amongst women committed to the cause of women;</p> <p>(b) one member to be appointed by the</p>	<p>Constitution of Local Complaints Committee.</p>

	<p>appropriate Government from amongst the registered trade unions or workers associations functioning in that block or district;</p> <p>(c) two members, of whom at least one shall be a woman, to be appointed by the appropriate Government from amongst such Non-Governmental Organizations or associations or other interests committed to the cause of women, as may be specified.</p> <p>(3) 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.</p> <p>(4) The Chairperson and Members of the Local Committee shall be entitled to such allowances or remuneration as may be prescribed.</p> <p>(5) The jurisdiction of the Local Committee shall be limited to the area within the Block level where it is constituted.</p> <p>(6) Where the Chairperson or any member of the Local Committee contravenes the provisions of section 14, such Chairperson or member, as the case may be, shall be removed from the Local Committee and the vacancy so created or any casual vacancy shall be filled by fresh appointment in accordance with the provisions of this section.</p>	
	<p>CHAPTER III</p> <p>COMPLAINT</p>	
<p>Complaint of sexual harassment.</p>	<p>7. (1) An aggrieved woman may make a complaint of sexual harassment at workplace to the Committee or the Local Committee, as the case may be, in writing:</p> <p>Provided that where such complaint cannot be made in writing, the Chairperson or any member of the Committee or the Local Committee, as the case may be, shall render all reasonable assistance to the woman making the complaint to reduce the same in writing.</p> <p>(2) Where the aggrieved woman is not able 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.</p>	
	<p>8. (1) At the request of the aggrieved woman the Committee or the Local Committee, as the case may be, may, before initiating enquiry under this Act, take steps to</p>	<p>Conciliation</p>

	<p>settle the matter between her and the respondent through conciliation.</p> <p>(2) Where a settlement is arrived at under sub-section (1), the Committee or the Local Committee, as the case may be, shall record the settlement and recommend the employer not to take any action in the matter.</p> <p>(3) The Committee or the Local Committee, as the case may be, shall provide the copies of the settlement recorded under sub-section (2) to the aggrieved woman and the respondent.</p> <p>(4) Where a settlement is arrived at under sub-section (1), no further enquiry shall be conducted by the Committee or the Local Committee, as the case may be.</p>	
	<p>9. (1) Where conciliation under sub-section (1) of section 8 is not arrived at, the Committee or the Local Committee, as the case may be, shall, subject to the provisions of section 14, proceed to make enquiry into the complaint in such manner as may be prescribed:</p> <p>Provided that where the aggrieved woman informs the Committee or the Local Committee, as the case may be, that any term or condition of the conciliation arrived at under sub-section (1) of section 8 has not been complied with by the respondent, the Committee or the Local Committee shall also proceed to make inquiry into the complaint.</p> <p>(2) The Committee or the Local Committee, as the case may be, shall have such powers for the purpose of making enquiry under sub-section (1) as may be prescribed.</p> <p>(3) The enquiry under sub-section (1) shall be completed within a period of ninety days.</p> <p>(4) Where the Committee or the Local Committee, as the case may be, fails to complete the enquiry within the period specified under sub-section (3), the employer or the District Officer, as the case may be, may take such action as may be prescribed.</p>	Enquiry into complaint.
	<p>CHAPTER IV</p> <p>ENQUIRY INTO COMPLAINT</p>	
	<p>10. (1) During the pendency of enquiry, on a written request made by the aggrieved woman, the Committee or</p>	

<p>Action during pendency of enquiry.</p>	<p>the Local Committee, as the case may be, may recommend to the employer to-</p> <p>(a) transfer the aggrieved woman or the respondent to any other workplace; or</p> <p>(b) grant leave to the aggrieved woman; or</p> <p>(c) grant to the aggrieved woman any other relief which may be prescribed.</p> <p>(2) On the recommendation of the committee or the Local Committee, as the case may be, under sub-section (1), the employer or the District Officer may take such necessary action as may be deemed proper.</p>	
<p>Enquiry report.</p>	<p>11. (1) On the completion of an enquiry under this Act, the 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, District officer.</p> <p>(2) Where the 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 or the District Officer that no action is required to be taken in the matter.</p> <p>(3) Where the 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, -</p> <p>(a) to take action for 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; or</p> <p>(b) to deduct from the salary or wages of the respondent such sum of compensation to be paid to the aggrieved woman or to legal heirs, as it may determine, in accordance with the provisions of section 13; or to direct the respondent to pay such compensation to the aggrieved woman.</p> <p>(4) Where any recommendation has been made to the employer or the District Officer under sub-section (1) he shall act upon the recommendation within ninety days of its receipt by him:</p> <p>Provided that where the employer or the District Officer is not in agreement with any conclusion</p>	

	<p>arrived at or recommendation made by the committee or the Local Committee, he may alter the conclusion or recommendation in consultation with the committee or the Local Committee, as the case may be, and the parties concerned in such manner as may be decided in the consultation and shall act upon the recommendation within ninety days of completion of the consultation.</p>	
	<p>12. (1) Where the Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is false or malicious 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 to take action against the woman or the person who has made the complaint in accordance with the provisions of the service rules applicable to her or him or where no such service rules have been made, in such manner as may be prescribed.</p> <p>(2) Where the Committee or the Local Committee, as the case may be, arrives at a conclusion that during the enquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules have been made, in such manner as may be prescribed.</p>	<p>Punishment for false or malicious complaint and false evidence.</p>
	<p>13. (1) For the purpose of determining the compensation to be paid to the aggrieved woman under clause (b) of sub-section (3) of section 11, the Committee or the Local Committee, as the case may be, shall have regard to-</p> <p>(a) the mental trauma, pain, suffering and</p>	<p>Determination of compensation.</p>

	<p>emotional distress caused to the aggrieved woman;</p> <p>(b) the loss in the career opportunity due to the incident of sexual harassment;</p> <p>(c) medical expenses incurred by the victim for physical or psychiatric treatment;</p> <p>(d) the income and financial status of the respondent;</p> <p>(e) feasibility of such payment in lump sum or in installments.</p>	
<p>Prohibition of publication or making known contents of complaint and enquiry proceedings.</p>	<p>14. Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made under sub-section (1) of section 7, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and enquiry proceedings, recommendations of the Committee or the Local Committee, as the case may be, 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:</p> <p>Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the identity and address of the aggrieved woman, respondent and witnesses.</p>	<p>22 of 2005</p>
<p>Penalty for publication or making known contents of complaint and enquiry proceedings.</p>	<p>15. Where any person entrusted with the duty to handle or deal with the complaint, enquiry or any recommendations or action to be taken under the provisions of this Act contravenes the provisions of section 14 shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules have been made, in such manner as may be prescribed.</p>	
<p>Appeal.</p>	<p>16. Any person aggrieved by any order passed under clauses (a) or (b) of sub-section (3) of section 11 or sub-sections (1) or (2) of section 12 or section 15 may prefer</p>	

	an appeal in accordance with the provisions of the service rules applicable to the said person or where no such service rules have been made, in such manner as may be prescribed.	
	CHAPTER V DUTIES OF EMPLOYER	
Duties of the Employer	<p>17. The employer shall-</p> <p>(a) provide a safe working environment at the workplace;</p> <p>(b) display at any conspicuous place in the workplace the Office Order made under sub-section (1) of section 4;</p> <p>(c) undertake workshops and training programmes at regular intervals for sensitizing the members;</p> <p>(d) provide necessary facilities to the Committee or the Local Committee, as the case may be, to deal with the complaint and conduct enquiry;</p> <p>(e) ensure the attendance of respondent and witnesses before the Committee or the Local Committee, as the case may be;</p> <p>(f) make available such information to the Committee or the Local Committee, as the case may be, as it may require with regard to the complaint made under sub-section (1) of section 7.</p>	
	CHAPTER VI MISCELLANEOUS	
	<p>18. The 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.</p>	Committee to submit annual report.

	<p>19. The employer shall include a section on the cases filed and judgments conferred under this Act in each annual report of his organization.</p>	Employer to include information in annual report.
	<p>20. (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,-</p> <p style="padding-left: 40px;">(a) call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require;</p> <p style="padding-left: 40px;">(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.</p> <p>(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.</p>	
	<p>21. Where the employer or the District Officer fails to-</p> <p style="padding-left: 40px;">(a) constitute a Committee under sub-section (1) of section 4;</p> <p style="padding-left: 40px;">(b) take action under sections 11, 12 and 19; and</p> <p style="padding-left: 40px;">(c) contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder,</p> <p>he or she shall be punishable with fine which may extend to rupees ten thousand.</p>	
Power of the appropriate Government to make rules.	<p>22. (1) The Central Government may, by notification in the official gazette, make rules for carrying out the provisions of this Act.</p> <p>(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:-</p> <p style="padding-left: 40px;">(a) the allowances and remuneration to be paid to the Chairperson and members under sub-section (4) of section 4;</p>	

(b) the allowances and remuneration to be paid to the Chairperson and members under sub-section (4) of section 6;

(c) the person who may make complaint under sub-section (2) of section 7;

(d) the manner of enquiry under sub-section (1) of section 9;

(e) the powers for making enquiry under sub-section (2) of section 9;

(f) the action to be taken by employer or District Officer under sub-section (4) of section 9;

(g) the relief to be recommended under clause (c) of sub-section (1) of section 10;

(h) the manner of action to be taken under clause (a) of sub-section (3) of section 11;

(i) the manner of action to be taken under sub-section (1) of section 12;

(j) the manner of action to be taken under sub-section (2) of section 12;

(k) the manner of action to be taken under section 15;

(l) the manner of appeal under section 16; and

(m) the form and time for preparation of annual report by Committee under section 18;

(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 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) Every rule made under this Act 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.



SCHEDULE

(Reference clause (v) of sub-section (l) of section 2)

LIST OF EMPLOYMENTS IN THE UNORGANISED SECTOR

1. AGRICULTURE

- a. agriculture
- b. agricultural machinery handling
- c. small scale farming

2. CONSTRUCTION

- a. construction work
- b. brick-kiln work
- c. building and road maintenance
- d. carpentry
- e. construction of tents and pandals, supply of utensils and decorations for functions
- f. quarry work
- g. welding
- h. stone crushing
- i. minor minerals and mines work
- j. sand mining

3. HANDLOOMS & POWERLOOMS, DYEING

- a. handloom weaving of cotton and silk
- b. powerloom weaving
- c. cloth printing
- d. bleaching & dyeing
- e. ginning

4. FISH

- a. fishing
- b. fish selling
- c. fishery production
- d. fish processing

5. POULTRY & ANIMAL HUSBANDRY

- a. animal husbandry
- b. dairying and allied activities
- c. shepherding

6. TEA, COFFEE, RUBBER, CASHEW, PLANTATION, PROCESSING, HORTICULTURE, SERICULTURE

- a. cashew processing
- b. gardening and parks maintenance
- c. horticulture and floriculture
- d. plantation (other than those covered under Plantations Labour Act, 1951 (Act No.69 of 1951))
- e. sericulture (silk rearing)

7. FORESTS & ALLIED ACTIVITIES

- a. forestry operation
- b. honey gathering
- c. minor forest produce gathering
- d. tendu leaves collection

8. TREE CLIMBING, COIR

- a. coir processing / manufacture
- b. toddy tapping
- c. coconut peeling

d. tree climbing

9. HOME BASED WORK

a. agarbatti making

b. beads making / piercing

c. beedi & cigar manufacture

d. bindi work

e. coaching service

f. envelope & file making

g. masala making

h. matches manufacture

i. pappad making

j. pickle making

10. VENDORS

a. hawking and vending

b. newspaper vending

c. panwallaha service

11. HANDICRAFTS

a. blacksmith

b. goldsmith

c. pottery

d. artist

e. sculpture

f. cane / reed work

g. carpet weaving

h. chikan work

i. hand embroidery work

j. floral work and garland making

12. SERVICES (TRADITIONAL & MODERN)

- a. beautician
- b. hair dressing
- c. health service
- d. rag picking
- e. scavenging
- f. shoe shining work
- g. sweeping
- h. laundry work
- i. child care
- j. cook
- k. security service
- l. band playing
- m. cable TV operation
- n. folk arts
- o. video & photography
- p. sound & light service

13. SHOPS & ESTABLISHMENTS

- a. shops & establishment service
- b. catering
- c. clubs and canteens service
- d. coaching service
- e. computer and information technology related services
- f. courier service
- g. data entry operation
- h. distribution of petroleum products
- i. electronic and electrical goods repairs

- j. health services
- k. hotel and restaurant services
- l. ngo services
- m. packing and packaging
- n. petrol bunk / pump and allied service
- o. security service
- p. telephone booth service
- q. jute products
- r. band playing
- s. cable TV operation
- t. folk arts
- u. video & photography
- v. sound & light service

14. TRANSPORT & ALLIED

- a. transport services (driving, conducting, cleaning etc)
- b. auto rickshaw
- c. bicycle repair
- d. boat / ferry operation
- e. bullock / camel – cart operation
- f. rickshaw pulling
- g. service station work
- h. wayside mechanics and workshop services
- i. automobile work

15. SALT PANS

- a. salt pan work
- b. loading & unloading

16. SMALL SCALE & COTTAGE INDUSTRIES

- a. arrack and liquor production and vending
- b. bakery work
- c. bangles manufacture
- d. bindi work
- e. brush making
- f. breweries, distilleries
- g. bulb manufacture
- h. carpet weaving
- i. electroplating
- j. envelope making
- k. fire work / crackers production
- l. flour mills operation
- m. foundry
- n. Garment manufacture
- o. glassware manufacturing
- p. lock making
- q. masala making
- r. matches manufacture
- s. papped making
- t. pickle making
- u. plastic manufacture
- v. printing press work
- w. rice mills, oil mills, dhal mills
- x. sawmill work
- y. soap manufacture
- z. sports goods manufacture
- aa. steel vessels and utensils manufacture

- ab. timber industry (furniture manufacturing saw mills)
- ac. toy making
- ad. butchery
- ae. welding
- af. engineering work
- ag. tin containers
- ah. sago
- ai. nib making
- aj. tanning (including hides and skin production), leather goods manufacture
- ak. footwear production

17. DOMESTIC

- a. gardening,
- b. baby sitting,
- c. cook
- d. cleaning & washing
- e. care of the sick & aged

18. LOADING UNLOADING GOODS SHEDS, YARDS MARKETS ETC

- a. headload work
- b. cleaning
- c. stacking

19. TAILORING