

KEY POINTS

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

Following key points are developed from the ACT after reading it entirely; I think that the following points would be of interest to the FS trustees. However, I don't believe these points need to be incorporated into the FS policy and procedures document. – Niranjana Davé, Dec 18, 2018

1. The Act went into effect on 9th December 2013
2. Is specifically for protection of women of any age (definitions: “**aggrieved**” woman – one who alleges to have been subjected to any act of sexual harassment by the respondent; “**respondent**” is a person against whom a complaint is made)
3. Definition of “workplace” includes, among other workplaces, “non-governmental organization” (**NGO**)
4. The leader of “Internal Committee” (Internal Complaints Committee) is referred to as “**Presiding Officer**” in this Act (Note: a leader of government’s Local Complaint Committee, LCC, is called “Chairperson”)
5. “**Sexual harassment**” is specifically defined as including any one or more of five behaviors: (1) physical contact or advances, (2) a demand or request for sexual favors, (3) making sexually coloured remark, (4) showing pornography, (5) any other unwelcome physical, verbal, or non-verbal conduct of sexual nature.

Further clarification is provided: following circumstances present in relation to sexual harassment behavior, may amount to sexual harassment: (1) promise of preferential treatment in employment, (2) threat of detrimental treatment in employment, (3) threat about present or future employment status, (4) creating intimidating, hostile, or offensive work environment, (5) humiliating treatment.
6. Internal Complaints Committee (**ICC membership**) - minimum four people: Senior female employee; any two employees, and an external person (member of an NGO who is committed to the cause of women). At least half of the members must be women. All members can hold the position for three years or less.
[Note: The Handbook published by the government includes a requirement that the external member must have five years of experience dealing with women issues]
7. **Complaint** must be filed, in writing, within three months of the incident occurring (or the last incident, if more than one). Help must be made available to a woman who needs it for filing a complaint. The ICC could extend this three-month limit by additional three months, at its discretion.
8. **Conciliation** (Note: This important point is not included in the handbook, to my knowledge): The ICC may, before initiating an inquiry (investigation) and at a request of the aggrieved woman, take steps to settle the matter between her and the respondent through conciliation **IF** no monetary settlement is made as a basis for reconciliation.

If the respondent fails to comply with the terms of the settlement, then ICC needs to start an inquiry (investigation) or forward the complaint to the police.
9. **Inquiry** (investigation) is conducted according to the organization’s ‘service rules’; must be completed within 90 days

Prepare a report of the findings and provide to the employer (FS Board of Trustees) and to the concerned parties, within 10 days of completion of the inquiry.

If allegation has not been proved, inform the employer and no further actions are needed

If the allegation has been proved: recommend actions to the employers - recommendation may include a fine; if the fine is not paid, then forward the matter to the District Officer for initiating recovery actions.

If allegation is found to be malicious or the complaint has been made knowing it to be false – recommend to the employer actions against the person filing such complaint. However, if the complainant is unable to provide adequate proof or substantiate the complaint in other way, it should not be held against the complainant.

10. **Powers of ICC:** “shall have the same powers as are vested in a civil court” – can summon and force attendance and examine the person under oath; require discovery and production of documents; and any other matter.
11. **Confidentiality** of all the information gathered or developed “shall not be published, communicated, or made available to the public, press, and media in any manner.”
12. **Annual report:** publish and send to the employer and the District Officer; include information on number of cases filed and their disposal.
13. **Non-compliance** with the Act: fine of up to Rs. 50,000.

Friends Society’s policy and procedures are outlined in a separate document titled:

**“Sexual Harassment Prevention, Prohibition and Redress:
Policy & Program”**

The latest version as of December 2018 is “December 2018 (v.2)”