



**FAMILY**  
**LEGAL CLINIC**

**PREVENTION OF SEXUAL ABUSE AND HARASSMENT ACT**

*Act Number: 16/2014*

*Date: 14-07-1435 H*

*13-05-2014 M*

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## **PREVENTION OF SEXUAL ABUSE AND HARASSMENT ACT**

### **CHAPTER 1**

#### **INTRODUCTION**

- Introduction and short title*
- 1.** (a) This is an Act to define what constitutes sexual abuse and harassment, to outline: responsibilities of different parties, and measures to be taken to prevent such acts; in an effort to prevent acts of sexual abuse and harassment in places of employment, and institutions that provide educational services, health services and other institutions that provide social service.
- (b) This Act may be cited as Prevention of Sexual Abuse and Harassment Act.
- Sexual Abuse and Harassment*
- 2.** (a) For the purpose of this Act, “sexual abuse and harassment” shall mean a sexual act done against or in relation to a person, by another person without the consent of that first person.
- (b) For the purpose of subsection (a) of this Section, where the victim deduces, comprehends, understands or interprets a sexual intent from the speech, or words, or writings, or drawings, or image, or sound, or act, or movement, or look or any other act of a person who performs such an act, it shall be deemed as a sexual act done against or in relation to a person.
- (c) For the purpose of this Section, the standard for determining that an act of sexual abuse and harassment has occurred against a person is the deduction, comprehension, understanding or inference a sexual intent from the act in question by a person of sound mind in the community, in addition to the circumstances surrounding the commission of the act.

- (d) For the purpose of this Section, determination that an act of sexual abuse and harassment has occurred against a person shall be made on the balance of probabilities.

## CHAPTER 2

### PREVENTION OF SEXUAL ABUSE AND HARRASMENT IN THE WORKPLACE

- Prohibition of sexual abuse and harassment in the workplace*
- 3.** An employer, or any other person employed in the workplace shall not commit an act of sexual abuse and harassment against a co-worker who works with or under the person in question.
- Persons who seek employment*
- 4.** (a) An employer shall not subscribe to acting in a manner that gives the impression that a person seeking employment, in any place of employment, will be able to secure the job by concurring with acts of sexual abuse and harassment perpetrated by the employer.
- (b) An employer shall not maintain his conduct or speech in a manner that may give the impression to the persons whom seek employment that the acquiesce to the acts of sexual abuse and harassment perpetrated by the employer is a reference for choosing a candidate for employment.
- Remaining in employment and appraisal*
- 5.** An employer shall not act in a manner that may give the impression to the employee that them remaining in employment or appraisal is contingent on acceptance to acts of sexual abuse and harassment perpetrated by others employed in the workplace.
- Non-deprivation from the rights*
- 6.** (a) The place of employment shall not be designed in such a way to create an impression that the rights and benefits that are inherent to all employees or appraisals will only be available for those who consent to acts of sexual abuse and harassment perpetrated by the employer, or that such persons will be given priority; or that

such rights will not be available to those who do not consent to such acts.

- (b) Submitting a complaint or being a witness in relation to an act of sexual abuse and harassment that is investigated under this Act, shall not be a reason that a person is deprived of the opportunity for employment, the right to remain employed, or the opportunity for advancement, or from any other rights that are inherently afforded to persons in employment.

*Adequate  
measures to be  
taken by  
employer*

- 7. (a) It is the responsibility of employers to take adequate measures to make the workplace free of, and protected from, acts of sexual abuse and harassment, and to ensure that the workplace will not cause a negative impact on the work of employees due to such incidents.
- (b) Following knowledge of the occurrence of an act of sexual abuse or harassment, an employer shall take measures to prevent such acts, in the workplace in order to ensure that the victim does not suffer any further damage.
- (c) Where the employer was aware of occurrence of such acts of sexual abuse and harassment in the workplace, the employer shall take responsibility for damages suffered by the victim of the abuse or harassment.

*Displaying the  
policy on  
sexual  
harassment*

- 8. (a) Every place of employment shall openly display their policy on sexual harassment where the employees and others who obtain their services can see and indicate that sexual harassment is prohibited by law and that measures will be taken against persons who commit such acts.
- (b) Workplaces shall make arrangements to make publicly available and accessible; complaints of sexual harassment, forms for submission of complaints, the procedure to be followed, and the

measures that will be taken against such acts.

- (c) All places of employment shall brief their employees, clearly, on their respective Sexual Harassment Policy.

### CHAPTER 3

#### PREVENTION OF SEXUAL ABUSE AND HARASSMENT IN INSTITUTIONS

- Prohibition of sexual abuse and harassment in institutions*      **9.** A senior official or an employee of an institution shall not sexually harass or abuse a person who seek the services of the institution. If the institution is a shelter for children or other persons, the children or persons in the care of the institution shall not be sexually harassed or abused. In the same manner, a person who obtains the services of the institution shall not sexually harass or abuse a person who provides services in the institution.
- Responsibilities of senior officials of institutions*      **10.** It is the responsibility of senior officials of institutions to take adequate measures to make the institution free and protected from acts of sexual abuse and harassment, and to prohibit commission of acts of sexual abuse and harassment against persons who seek their services, and formulate policies to be employed for that purpose, and to inform about those policies to the employees and person who seek their services.
- Acts of senior officials and employees of institutions*      **11.** Senior officials and employees of institutions shall not maintain their conduct in a manner that may lead to any of the following, or give such an impression to those who seek the services of the institutions:
- (a) that a person seeking the services of the institution will only be provided with that service by acquiescing to the acts of sexual abuse and harassment by the senior official or employee of the institution;
  - (b) that services provided by the institution will only be expedited, or a slot from the institution will only be made available by acquiescing to the acts of sexual abuse and harassment by the

- senior official or employee of the institution;
- (c) that persons who acquiesce to the acts of sexual abuse and harassment by the senior official or employee of the institution will be given priority when it comes to services that need to be provided equally by the institutions;
  - (d) that the services or benefits or concession that ought to be provided to children or other persons will only be provided by acquiescing to acts of sexual abuse and harassment, where the institution is one that provides shelter for children and other persons;
  - (e) that person who acquiesce to acts of sexual abuse and harassment will not be terminated from the institutions even though their termination is warranted.

*Institutions to be free from sexual abuse and harassment*

*Displaying the policy on sexual harassment*

- 12.** It is the responsibility of senior officials of institutions to make the institutions safe and free from despicable acts such as sexual abuse and harassment for those who seek the services of institutions and where the institutions are shelters for children and other persons, for the children and other persons.
- 13.**
  - (a) Institutions shall openly display their policy on sexual harassment where those who obtain their services, and if the institution is a shelter for children and other persons, where the children and other persons can see and indicate that sexual harassment is prohibited by law and that measures will be taken against persons who commit such acts.
  - (b) Institutions shall make arrangements to make publicly available and accessible complainants of sexual harassment, forms for submission of complaints, the procedure to be followed, and the measures that will be taken against such acts.
  - (c) Those who are interested in obtaining the services of an institution

shall be clearly briefed on their policy on sexual harassment, in a manner organized by the institutions.

#### CHAPTER 4

##### SUBMISSION OF COMPLAINTS

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|---|---|
| <i>Right to submit complaint</i>  | <p><b>14.</b> (a) Where an employer or co-worker commits an act of sexual abuse or harassment against the employee; any employee shall have the right to submit a complaint to the committee for prevention of sexual abuse and harassment established in the workplace under section 17 of this Act.</p> <p>(b) A person who seeks the services of an institution shall have the right to submit a complaint to the committee for prevention of sexual abuse and harassment established in the institution under Section 17 of this Act, where a senior official or an employee of the institution commits an act of sexual abuse and harassment against the person.</p> |
| <i>Complaints for prioritizing persons who acquiesce to sexual harassment</i> | <p><b>15.</b> A complaint maybe submitted against the employer where a person was deprived of the opportunity for employment, or appraisal for reason of their refusal to acquiesce to the acts of sexual abuse and harassment of the employer; where another person who did acquiesce to the acts of sexual abuse and harassment of the employer secured employment or appraisal.</p>  |
| <i>Complaints to another workplace or institution</i>                         | <p><b>16.</b> A complaint can be made to the committee on prevention of sexual abuse and harassment established in the respondent’s workplace, where the respondent to any acts of sexual abuse or harassment does not work in the same establishment as the complainant.</p>   |
| <i>Committee on prevention of sexual abuse</i>                                | <p><b>17.</b> (a) A committee for investigating and taking measures with respect to complaints made about sexual abuse and harassment, titled “Committee on Prevention of Sexual abuse and Harassment” shall</p>  |

*and  
harassment*

be established in every workplace that consists of more than 30 employees.

- (b) Notwithstanding subsection (a) of this Section, this Section does not prevent such committees being formed in main secretariat, or holding company or if it is a department, in the relevant ministry, where there are number of employees are not enough to establish the committee.
- (c) Notwithstanding subsections (a) and (b) of this Section, this Section requires establishment of the committee stated in subsection (a) of this Section, in every ministry, President's Office, independent institutions, people's majlis and all courts established under the law.
- (d) Notwithstanding subsection (c) of this Section, in courts with less than 30 employees, the committee stated in subsection (a) of this Section shall be established in the Department of Judicial Administration, for looking into complaints of sexual abuse and harassment.
- (e) The committees that are required to be established pursuant to subsections (a), (b) and (c) of this Section, shall be established within 6 months from the date this Act comes into force.
- (f) Complaints of sexual harassment that occurs in places without the committee stated in subsections (a) or (b) or (c) of this Section, shall be submitted directly to the Tribunal.

*Establishing  
the committee*

- 18.** (a) The complaint committee shall be established by the human resources section of the workplace or institution. Where such a section does not exist, the committee shall be formed by senior most official.
- (b) The committee shall comprise of 3 members.
  - (c) Persons among the senior management of the workplace or the

institution shall be appointed as members of the committee.

- (d) The committee shall comprise of at least 1 female member.
- (e) A chairperson of the committee shall be elected form among the members.
- (f) A person against who a complaint of sexual abuse and harassment has been made, or a person who has been found to have committed such an act and been penalized for it shall not be appointed as a member of the committee.
- (g) This Section does not prevent the appointment as a member of the committee, of a person who does not belong to the institution in which the committee is established.

*Duties and responsibilities of the committee*

- 19.** The duties and responsibilities of the complaint committee are stated below:
- (a) Displaying messages that inform tat sexual abuse and harassment is prohibited by law; in the workplace or institutions;
  - (b) Conducting awareness programs for employees and customers about prevention of sexual abuse and harassment;
  - (c) Where the institution is a shelter for children and other persons; conducting awareness programs for children and other persons about prevention of sexual abuse and harassment;
  - (d) Where a complaint was filed, or the committee reasonably believes of occurrence of acts of sexual abuse and harassment, summon and obtain witness statements and evidence regarding a complaint or suspicion of sexual abuse and harassment,
  - (e) obtaining relevant documents in relation to a complaint of sexual abuse and harassment;
  - (f) conduct investigations in relation to a complaint, and take measures against the person in a manner that would not contravene the Employment Act, where the respondent is found to

have committed an act of sexual abuse and harassment;

- (g) conduct investigations in relation to a complaint, and direct the complainant to file a case in the relevant investigation authority where the complaint relates to a criminal offence, and aid the complainant to proceed with the case;
- (h) conduct investigations in relation to a complaint, and assist the complainant in reinstating a concession, appraisal or any other right which the complainant was deprived of, where the respondent is found to have committed an act of sexual abuse and harassment; or where the complaint was filed by a customer of an institution, assist the complainant in reinstating an opportunity or right that he was deprived of.

*Investigation  
by the  
committee*

- 20.** (a) In investigating a complaint made to the committee, the committee shall act according to the procedures set forth in the regulation made under this Act.
- (b) The workplace or institution shall plan for the complaint committee to conduct their work.

*Rights of the  
complainant  
and the  
respondent*

- 21.** (a) The complainant shall be provided with the following opportunities when the complaint committee investigates a complaint made to it:
- (1) to state in detail the complaint being made;
  - (2) to adduce witnesses of his choice.
- (b) The respondent shall be provided with the following opportunities and information when the complaint committee investigates a complaint made to it:
- (1) details of the complaint made;
  - (2) to make submissions in his defense.

*Measures that  
may be taken*

- 22.** (a) The complaint committee may take any of the following measures having regard to the gravity of the complaint made, after

*by the  
committee*

investigating the complaint:

- (1) issuing a written advice to the perpetrator of act of sexual abuse and harassment;
- (2) issue a written warning to the perpetrator of act of sexual abuse and harassment, not to repeat such an act;
- (3) suspension of the perpetrator of act of sexual abuse and harassment from employment for a certain period of time;
- (4) preventing the perpetrator of act of sexual abuse and harassment from carrying out his duties;
- (5) demoting the perpetrator of act of sexual abuse and harassment to a position that is lower than the one he was holding;
- (6) terminating the perpetrator of act of sexual abuse and harassment from employment;

(b) Measures taken against the perpetrator of act of sexual abuse and harassment pursuant to this Section shall be recorded in his employment record.

*Period for  
concluding the  
investigation*

**23.** Unless stated otherwise in this Act, investigation of complaints made to the committee shall be concluded within 60 days.

*Complaints  
against a  
member of the  
committee*

**24.** The committee may proceed in one of the following ways where the respondent of the complaint is a member of the committee:

- (a) complainant submitting the complaint directly to the Tribunal; or
- (b) recusing the respondent from the committee and investigating the matter without the respondent;
- (c) The human resource section or the senior most official of the workplace to formulate a temporary committee with the consent of the complainant.

*Penalties for not establishing the committee*

25. (a) Places which are required to establish the committee on prevention of sexual abuse and harassment pursuant to Section 17 of this Act shall establish such committees within 6 months from the date this Act comes into force and provide information of it to the Tribunal.
- (b) Any person has the right to file a complaint with the Tribunal for the failure of a place to establish a committee on prevention of sexual abuse and harassment pursuant to Section 17 of this Act.
- (c) Where a complaint is made to the Tribunal under subsection (b) of this Section, the matter shall be investigated and if the complaint committee has not been established in the place, such a place or institution shall be fined with Maldivian Rufiyaa 5,000.

*Submission to the tribunal after the decision of the committee*

26. (a) Where the complainant is not satisfied with the decision of the complaint committee, he has the right to submit the matter to the Tribunal with 180 days from the date the committee makes its decision.
- (b) The right to submit the matter to the Tribunal under subsection (a) of this Section shall be afforded to any person where the complaint was first submitted to the complaint committee under Section 14 of this Act and the committee had given its decision.
- (c) Where the respondent is found to have committed an act of sexual abuse and harassment upon investigation by the committee, the complainant shall have the right to initiate a claim in the Tribunal to recover compensation for damages suffered by the complainant as a result of the act.
- (d) Notwithstanding subsection (b) of this Section, where the committee has not concluded its investigation within 60 day from the date the complaint was made, the complainant shall have the right to submit the complaint directly to the Tribunal.



respondent and issue written instructions to that effect;

- (c) where the complainant and the respondent are co-workers; issue written instructions to the employer to take measures to ensure that the respondent does not repeat the acts of sexual abuse and harassment and to ensure that the acts of the respondent be prevented,
- (d) recover compensation for the victim as a result of damages suffered due to the acts of sexual abuse and harassment of the respondent;
- (e) any other measures which the tribunal may deem appropriate.

*Damages*

**33.** The Tribunal shall have regard to the following when recovering compensation for damages suffered by the victim as a result of the act of sexual abuse and harassment:

- (a) psychological trauma suffered by the victim;
- (b) loss of employment opportunities or appraisals as a result of the act;
- (c) loss of opportunities or material damages suffered by a person seeking services of an institution;
- (d) costs incurred to obtain medical services or psychological help for damages suffered as a result of the act;
- (e) earnings of the respondent.

*Damages set-off from wages*

**34.** Where a respondent is in breach of an order of the Tribunal under Section 32 of this Act awarding damages to a victim of sexual abuse and harassment, where such an act is proved under this Act, the Tribunal shall have the power to order the respondent's employer to pay damages to the victim after setting-off from the respondent's wages.

*Appeal*

**35.** (a) Unless otherwise specified in this Act, procedures set forth in the Employment Act shall be followed in appealing a decision of the Tribunal under this Act.



- (7) Making inappropriate jokes about body parts as a form of harassment;
- (8) Direct or indirect propositions which imply that employment may be secured or remaining in employment or appraisals will be granted, or any other benefits due to the employee will be available only if a sexual desire is fulfilled or by acquiescing to acts of sexual abuse and harassment in return.
- (b) “Complainant” shall mean the victim of sexual abuse and harassment.
- (c) “Respondent” shall mean the perpetrator of the act of sexual abuse and harassment.
- (d) “Employer” shall mean the employer and other senior officials of the place of employment.
- (e) “Senior officials of institutions” shall mean the highest rank most official of an institution and other superior officials of the institution.
- (f) “Institution” shall mean educational institutions, jails, children’s shelters, shelters for persons with disabilities, drug rehabilitation centres, institutions providing health services, sports centres, social centres and other places that provide services to the public.
- (g) “Persons seeking services of institutions” shall mean students, in relation to an educational institution. If it is any other type of institution, a person who seeks the services of that institution.
- (h) “Committee” or “complaint committee” shall mean the committees established under Section 17 of this Act in workplaces and institutions, for prevention of sexual abuse and harassment.
- (i) “Tribunal” shall mean the Employment Tribunal established under Act number 2/2008 (Employment Act).
- (j) “Acquiesce” shall mean consenting, accepting or agreeing to an act

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of sexual abuse and harassment.

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