

Important Amendment in DIRECTORS' REPORT



CA. PRAMOD JAIN

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Namaste

DIRECTOR'S REPORT for other than Small Companies and One Person Companies has been amended w.e.f. 31st July 2018 to include the following 2 points:

1. Disclosure, as to whether maintenance of cost records as specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013, is required by the Company and accordingly such accounts and records are made and maintained
2. Statement that the company has complied with provisions relating to the constitution of Internal Complaints Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

To comply with the 2nd requirement, one should understand about compliances under the Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act, 2013. A brief understanding thereof is as under:

- Every employer of a workplace having **at least 10 employees** has to constitute a **Committee** to be known as the "**Internal Complaints Committee**". It should consist of:
 - A Presiding officer who shall be a woman employed at a senior level at workplace from amongst the employees,
 - 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,
 - 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,
 - However, at least 50% of the members of the committee has to be women.
- Where there are **less than 10 employees**, the complaints may be made to **District Officer** who has constituted a committee known as the "Local Complaints Committee"
- Where the complaint is against the employer himself, then also the complaint can be made with Local Complaints Committee constituted by District Officer.

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- **COMPLAINT** – An 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.

 - Where the aggrieved woman is unable to make 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.

 - Where the aggrieved woman informs the Internal Committee or the Local Committee as the case may be, such committee shall proceed to make an inquiry into the complaint, forward the complaint to the police.

 - **PENALTY FOR NON COMPLIANCE ON EMPLOYER** - Where the employer FAILS to:
 - Constitute an Internal Complaints Committee; or
 - Take Action u/s 13, 14 and 22; or
 - Contravenes or attempts to contravene other provisions of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013
- He shall be punishable with fine which may extend to Rs. 50000/-.
- If employer is subsequently convicted for the same offence, he shall be liable to:
 - Twice the punishment, which might have been imposed on a first conviction
 - Cancellation, of his licence or withdrawal, cancellation of the registration, as the case may be, by the Government or local authority required for carrying on his business or activity.

DIRECTORS' REPORT COMPLIANCE

Where the company has constituted such committee and made the required compliances, it should state in its Directors' Report as under:

1. Your Company has formulated policy for prevention of sexual harassment of women in line with provisions relating to the constitution of Internal

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Complaints Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and related rules.

- The annual summary is as under:
 - No. of complaints of sexual harassment received in the year:
 - No. of complaints disposed-off during the year:
 - No. of complaints pending for more than 90 days:
 - No. of workshops or awareness programme against sexual harassment carried out:
 - Nature of action taken by the employer or District Officer:

OR

- The annual summary is as under:
 - No. of complaints of sexual harassment received in the year:
 - No. of complaints disposed-off during the year:

Your Company has been conducting awareness campaign across all its units/offices to encourage its employees to be more responsible and alert while discharging their duties

OR

During the year under review, there were no cases filed pursuant to the sexual harassment Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Your Company has been conducting awareness campaign across all its units/offices to encourage its employees to be more responsible and alert while discharging their duties.

OR

2. Your company is not required to constitute Internal Complaints Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 as there are less than 10 employees in the company.

APPEAL

Apart from the Directors' Report Compliance, I appeal to all members and in particular female members of this august profession to please ensure that an adequate 'Local Compliant Committee' is constituted at your workplace which is operating effectively. Even the female Articled Trainees are encouraged to seek Sexual

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Harassment Complaint and Redressal Mechanism from their principals in accordance with the laid down laws.

Following are the documents which could be of use to you:

- Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act, 2013 -
http://lunawat.com/Uploaded_Files/Attachments/F_4165.pdf
- Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Rules, 2013 -
http://lunawat.com/Uploaded_Files/Attachments/F_4166.pdf
- Draft Prevention of Sexual Harassment Policy -
http://expertspanel.in/index.php?qa=user&qa_1=CA.+Pramod+Jain&qa_2=articles

We also need to strengthen women physically by teaching self-defence techniques and martial arts. It's time that women realize that they need to be self-reliant, physically as well as mentally and they no longer look upon a male to protect them. Rather, there should be so much fear in men that they should think twice and watch out before harassing a woman

I hope this document is of use to you. Your suggestions and comments would be highly appreciated.

Best Regards

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