

# Presentation

on

## Labour Laws

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## Object

- To refresh your knowledge of Labour Laws necessary for carrying on business on a day-to-day basis.

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## Labour Legislations

- A cluster of legislation enacted and amended by the government from time to time.
- Covers a whole gamut of issues relating to employee and employment.
- Various compliances and obligations imposed upon the employer
- Non compliance entails penalty/prosecution

## Employment Legislation in India may be broadly classified into five categories.

1. Norms and Standard Legislation.
2. Legislation regulating the terms and conditions of the service.
3. Social Security Legislation
4. Contract Legislation.
5. Training and Development Legislation

## Employment Laws applicable to Establishments

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Specific Acts applicable are:

1. Shops and Commercial Establishments Act, 1963
2. Industrial Establishment (N&F) Holidays Act, 1963
3. Payment of Wages Act, 1936
4. Minimum Wages Act, 1948
5. Contract Labour (Regulation and Abolition) Act,1970
6. Maternity Benefits Act,1961
7. Employees' Provident Funds and Miscellaneous provisions Act, 1952
8. Employees' State insurance Act, 1948
9. Payment of Gratuity Act,
10. Employees' Compensation Act,1923
11. Equal Remuneration Act,
12. Industrial Disputes Act,1947
13. Trade Unions Act,1926
14. Apprentices Act,1961
15. Industrial Employment (Standing Orders) Act, 1946
16. Cigarettes and Other Tobacco Products , (Prohibition of Advertisement and Regulation of Trade and Commerce , Production , Supply and Distribution) Act, 2003
17. Sexual Harassment Prevention Bill

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## Karnataka Shops & Establishment Act,1963

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### — Commercial Establishment

- An establishment which carries on any trade, business, profession or any work in connection with or incidental or ancillary to any such trade, business or profession.
- This Act covers the regulation of conditions of work and employment in shops and commercial establishments like:-
  - registration
  - hours of work
  - overtime and weekly holidays
  - annual leave with wages
  - maintenance of records
  - Prohibition of employment of children and women, enforcement and inspection

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## Hours of Work:

- The time during which the persons employed at the disposal of the employer exclusive of any interval allowed for rest and meal hours.
- No employee in any establishment shall be required to work more than forty eight hours in any week. The daily time limit ranges from 8/9 hours.

## Interval for rest:

- 1 hour before five hours work

## Overtime:

- Overtime is limited to 50 hours per quarter and shall be paid at twice the gross salary.

## Leave:

- Leave to employees is granted on the basis of statutory provisions, customs, usages or regional practices.
- Every employee who has worked for a period of 240 days or more during a continuous period of twelve months in any establishment shall be entitled for a specified number of annual leave with wages to be availed by him during the subsequent period of twelve months. ("Privilege / Earned Leave")
  - 1 day leave for 20 days worked
- Every employee in an establishment shall also be entitled for Leave with wages for a specified period not exceeding twelve days on the ground of any sickness. ("Sick cum Casual Leave")

## Weekly Holiday:

- One day for every six days worked.

## Leave & Holidays

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- Obligation for granting Leave
  - Leave cannot be demanded as a matter of right, except for justifiable reason.
  - Employer has an equitable obligation to grant leave to an employee up to a maximum limit of leave as prescribed in Company's leave policy formulated as per statutory norms, for *bona fide* reasons.
- Necessity of applying for leave
  - It has been held by the courts that absence from work without any application for leave is gross violation of discipline.
- Absence In spite of Refusal of leave
  - Short absence without grant of leave is not a serious misconduct
  - Factors to be considered, depends on the reason for which the employee applied for leave and the business exigencies.

## Appointment Letter:

- Act provides for compulsory issue of appointment order in Form- Q.

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## Maintenance of registers

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- Every employer shall maintain a
  - Combined Muster-roll cum Register of wages in Form T
  - Register of Leave in Form F
  - Leave Card in Form H

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## Law Relating to Termination

- Either of the parties to the contract of employment, is ordinarily, entitled to terminate the contract at any time, by giving notice to the other.
- If a termination is done for the reason of misconduct or inefficiency or evil pecuniary effects or such other similar reason, the same would be qualified as a "*stigmatic termination*".
- If the termination is done without assigning any reason or casting any aspersion with respect to the honesty, integrity or competence of the Employee, the same would be a "*Discharge Simpliciter*" and the Employer can go ahead and do the same without holding any domestic enquiry.

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## Law Relating to Termination (contd...)

- If the Employer intends to do a Stigmatic Termination, it has to hold a domestic enquiry into the facts relating to the allegation forming the reason for such a termination. If the enquiry so conducted finds employee guilty, the Employer can go ahead and terminate the services of the employee.
- The question of the termination being a Stigmatic Termination or a *Discharge Simpliciter* would depend on the facts of the case.
- The procedure of domestic enquiry is based on the principles of natural justice. The broad requirements are 1.Charge sheet, 2.Domestic enquiry,3.report of the enquiry officer,4.Show cause notice and 5. order of punishment.

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## Law Relating to Termination (contd...)

- The termination of service for whatever reason, is a critical moment in an employee's life.
- The most important aspect for the managers are obviously, the avoidance of the slightest trace of arbitrariness or impulsiveness, and the necessity of written documentation of each step leading to any termination.
- The Employer can terminate the employment based on non-performance/ ineffective performance of the employee. The performance evaluation has to be based on objective criteria. The termination has to be linked to the suitability of the Employee to the specific job and the requirement of the Company. Such a termination can be classified as a Discharge Simpliciter.

## National & Festival Holidays Act, 1963

An Act to provide for the grant of National & Festival Holidays to persons employed in Industrial Establishments .

- Every employer shall declare 3 national and 7 festival holidays in a year – out of 7 festival holidays May 1<sup>st</sup> & Nov 1<sup>st</sup> shall be compulsory.
- Employee who works on Holiday to be paid twice the rate of Ordinary wages
- Statement of National and Festival Holidays to be sent to the Labour Inspector and copy of the same to be displayed on the notice board.

## The Payment of Wages Act, 1936

- The Act guarantees payment of wages in time and without any deduction except those authorized under the Act.
- The Act also provides for responsibility for payment of wages, fixation of wage period, time and mode of payment of wages.
- Wage period cannot exceed 30 days.
- Wage shall be paid on or before 7/10 day of the close of wage period.
- Wage shall be paid in current coin or cheque.
- Wage register shall be maintained and wage slip shall be issued.
- The Act does not apply to the persons whose wage is Rs.10,000/- or more per month.
- The Act also provides that the worker cannot contract out of any right conferred upon him under the Act.

## The Minimum Wages Act, 1948

- The Act will be applicable to the scheduled employment and fixation of wages where the Government fixes the minimum rate of wages every year for scheduled employment and the same is revised every year.
- The employer in the scheduled employment shall have to pay minimum wages fixed. Failure to do so will not only make him liable for prosecution but he shall also liable to pay penalty to the workmen concerned equal to 10 times the minimum wages payable.
- The Supreme Court of India has held that an industry which cannot pay minimum wages has no right to exist.
- Domestic workers are covered by the Act and Karnataka government has prescribed the minimum wages by issuing notification.



## The Contract Labour (Regulation & Abolition) Act, 1970

**Object of the Act:** To regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

**Applicability :** Every establishment in which 20 or more workmen are employed or were employed on any day of the preceding 12 months as contract labour. Every contractor who employs or who employed on any day of the preceding twelve months 20 or more workmen.

**Registration of Establishment:** Principal employer employing 20 or more workers through the Contractor or the Contractor(s) on deposit of required fee in Form-1.

## The Contract Labour (Regulation & Abolition) Act, 1970 (contd...)

- **Revocation of Registration:** When obtained by misrepresentation or suppression of material facts, etc., after opportunity to the Principal Employer.
- **Prohibition of Employment of Contract Labour:** The appropriate Government through issue of notification after consultation with the Board (and not Courts) has power to order the prohibition of employment of Contract Labour in any process, operation or other work in any Establishment. The employment of contract labour under the Act is permissible in a different process/operation in the Industry unless it is prohibited in accordance with the procedure laid down under the Act.
- **Licensing of Contractors :** Engaging 20 or more than 20 workers and on deposit of required fee in Form- IV and Valid for specified period.

## The Contract Labour (Regulation & Abolition) Act, 1970 (contd...)

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- ❖ **Revocation or Suspension & Amendment of Licences;**
  - When obtained by mis-representation or suppression of material facts.
  - Failure of the Contractor to comply with the conditions or contravention of Act or the Rules.
- ❖ **Welfare measures to be taken by the Contractor:**
  - The Act makes it mandatory on the part of the contractor to provide certain welfare facilities. If the contractor fails to provide the same it shall be provided by the principal employer and he is entitled to recover the same from the contractor out of the bills payable.
- ❖ **Responsibility of Contractor for Payment of Wages:**
  - To pay timely and to ensure the disbursement of wages in the presence of the authorized representative of the Principal Employer.
  - Rate of wages not less than the rates fixed as per Minimum Wage Notification.
  - Equal pay for equal work principle applicable.

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## The Maternity Benefit Act, 1961

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- The Act applies to the Factory, where 10 or more employees are employed or were employed on any day during preceding 12 months.
- To claim the benefit under the Act, a female employee should have worked not less than 80 days in 12 months immediately preceding the date of delivery.
- Total period of Maternity Leave with full pay available is 12 weeks i.e., 6 weeks prior to confinement and 6 weeks post delivery.

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## Maternity Benefit Act, 1961 (contd...)

- Termination To Be Void
  - When a woman avails leave in accordance with the provisions of this Act, it shall be unlawful for her employer to dismiss her during, or on account of, such absence, or give notice of dismissal in such a day that the notice will expire during such absence or to vary to her disadvantage, any of the conditions of her services .

## The Employees' Provident Funds and Miscellaneous Provisions Act, 1952

- The Act came into force in 1952 to ensure compulsory Provident Fund and comprises of the following schemes: -
  - Employees' Provident Fund, 1952.
  - Employees' Deposit-Linked Insurance Scheme, 1976.
  - Employees' Pension Scheme, 1995 (replacing the earlier Family Pension Scheme of 1971).
- The Act applies to Factories which employ 20 or more persons and are engaged in the manufacture of items specified in the schedule to the Act.
- The Act would be applicable to other industries and class of establishments notified by the Central Government from time to time in the Gazette.

## The Employees' Provident Funds and Miscellaneous Provisions Act (contd...)

- The establishment not covered under the Act may also apply for coverage under the provisions of the Act on Voluntary basis.
- Once, the establishment opts for coverage on Voluntary basis shall be required to comply with all the provisions of the Act at par with other covered establishment and cannot opt out of coverage on a subsequent date.
- The Act applies to those employees whose pay does not exceed Rs.6,500/- per month. Those employees whose salary exceeds the said ceiling are treated as excluded employees. Voluntary coverage permitted.
- The Act would cover all employees including casual, part time, daily wages and other employees except excluded employees.

## The Employees' Provident Funds and Miscellaneous Provisions Act (contd...)

- The membership of an eligible employee under the Employees' Fund and Miscellaneous Provident Fund Act, 1952 is compulsory from the first day of his appointment; all the eligible employees in the establishment are to be extended the benefit of the Act.
- The employer is required to contribute 12% of the salary average and employee is required to contribute the equal amount.
- Employer has the obligation to cover the contract labour also.

## The Employees' Provident Funds and Miscellaneous Provisions Act (contd...)

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- The Provident Fund Scheme has been amended on 1<sup>st</sup>, November 2008 to provide for coverage of International Workers.
- An International worker may be an Indian worker or a foreign national. This means an Indian worker who has divided his/her career between India and another country with whom India has entered into a bilateral Social Security agreement or a foreign national working in India.
- A 'detached worker' posted in an establishment in India but contributing to the social security programme of the source country in terms of the bilateral Social Security agreement signed between that country and India shall be an 'excluded employee' under these provisions.
- An employee, holding or entitled to hold an Indian passport and employed by an establishment covered under the EPF and MP Act, 1952 is an Indian employee under the Special provisions in respect of International workers.

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## The Employees' Provident Funds and Miscellaneous Provisions Act (contd...)

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- Withdrawals are permitted only under the following circumstances:-
- On retirement from service in the establishment after attaining 58 years of age.
- On retirement on account of permanent and total incapacity to work due to bodily or mental infirmity as certified by the prescribed medical officer / registered practitioner.
- On suffering from tuberculosis, leprosy or cancer, even if contracted after leaving the service on the grounds of illness but before payment has been authorized.
- Upon satisfying the conditions specified in the Social Security Agreement (SSA) entered into between the Government of India and the other country in respect of a member covered under such agreement.

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## Employees' State Insurance Act

- The Act applies to Factories and Establishments employing 10 or more persons.
- The provisions of the Act are extended area wise by the State Government. In the event, there is no notification covering the particular geographical area where the Factory is situated, the Act is not applicable to the Factories situated in such uncovered area.
- Any person employed for wages/salary upto Rs. 15,000/- in or in connection with the work of the establishment or factory is covered under the Act. The following shall be deemed as wages for the purpose of the Act: -
- *“Basic Pay, Dearness Allowance, House Rent Allowance, City Compensatory Allowance, Overtime Wages, Production Incentive when paid within two months, Night Shift Allowance, Heat, Gas and Dust Allowance, Meal and Food Allowance, Suspension Allowance, Layoff Compensation etc.”*
- The rate of contribution payable will be 4.5% of wages by the employers and 1.75% of wages by the employees.

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## Employees' State Insurance Act (contd...)

- Liability to contribute would arise on the date when the establishment becomes a Factory and it is the duty of the employer to get the code number assigned and pay contribution.
- Application for registration shall be made within 15 days after the Act becomes applicable.
- There are two contribution periods of 6 months duration in a year in respect of each employee with the corresponding benefit period of 6 months each.
- The benefits available under the Act include sickness benefit, compensation in case of accidents and maternity benefit.
- The non-payment of contribution by the employer would attract not only damages but also penal action.
- The employer is liable to pay contribution in respect of contract labour also in case of default by the contractor.
- Pechan card has been introduced for facilitating availing medical benefit at any ESI hospital.
- Arrangements have been made with the multi-specialty hospital for treatment of the insured persons and dependents.

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## Payment of Gratuity Act, 1972

- The Act provides for a scheme for payment of Gratuity to employees engaged in factories, mines, oil fields, plantations, ports, railway companies, shops or other establishments.
- Gratuity shall be payable to an employee on termination of his employment after he has rendered continuous service for not less than 5 years.
  - On his superannuation
  - On his retirement and resignation
  - On his death or disablement due to accident or disease.

## Payment of Gratuity Act (contd...)

- Legal Heirs or nominees of the deceased employee will be entitled to receive gratuity, even if the employee had not completed 5 years of service.
- The amount of gratuity payable is 15 days wages (Basic + DA) for every completed year of service but, the wages for the month will be calculated as if the month comprises 26 days only.
- The maximum amount of gratuity payable to an employee is Rs.10,00,000/-.
- There is no salary ceiling for coverage under the Act. Gratuity can be forfeited, if the services of the employee are terminated on account of misconduct resulting in damage or loss or destruction of property of the employer.
- Loss is deducted from the amount of gratuity payable to the employee.
- If the services of the employee is terminated for proven misconduct of (a) Riotous or disorderly conduct, (b) any other act of violence committed by the employee or (c) an offence involving in moral turpitude committed by the employee during the course of employment, gratuity may be wholly or partly forfeited.

## The Employees Compensation Act – 1923

- The Act provides for compensation to workmen by their employers for injury, which may be suffered by the workmen as a result of an accident during the course of employment.
- The compensation is payable in case of death of a workman or suffering from permanent or partial disability on account of accident and temporary disability on account of accident in the course of and out of employment.
- The Act prescribes the method for determining the payment of compensation in case of fatal accident and other accident which result in permanent/partial disability to the workman.
- If the monthly wages of the workmen exceed Rs.8,000/-, his monthly wages for the purpose of calculation of compensation shall be deemed to be Rs.8,000/- only.

## The Equal Remuneration Act

- The Act provide for Payment of equal remuneration for men and women for similar type of jobs and for prevention of discrimination on the ground of sex against women in the matter of employment, etc.



## Industrial Disputes Act, 1947

- Primarily aims at regulating and harmonizing relationship between employer and the employees by method such as conciliation and adjudication. It lays down machinery for resolution of dispute between the parties.
- The distinctive feature of the Act is that all Factories and Establishments, irrespective of being registered or not under any other Act and regardless of the number of employees on the rolls will come under its purview. The Act applies to every business, trade, undertaking, service, avocation, etc., which is considered as an industry under the Act.
- An individual workman can also raise an industrial dispute with regard to his discharge, dismissal, retrenchment or termination.
- Act covers Industries and Workmen.
  - Workman definition excludes Supervisor and Manager

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## Industrial Disputes Act, 1947 (cont...)

- Retrenchment
  - Termination of the service of an employee by the employer, for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action.
  - Employee needs to be given one month's notice in writing indicating the reasons for retrenchment/ payment in lieu of the notice period.
  - Retrenchment compensation to be paid at the rate of 15 days gross salary for every completed years of service.
  - Notice pay + compensation shall be paid along with termination order.
  - Last come first go.

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- The Act provides that no Employer who proposes to make any change in the condition of service applicable to any workman in certain specified matters shall do so without giving to the workmen likely to be affected by such change, a notice as to the nature of change proposed to be made or within 21 days of giving notice.
- The Act provides for prohibition of strikes and lock outs under certain circumstances and if lock out is declared or workmen resort to strike in contravention of the said stipulations, the lock out or strike as the case may be will be illegal. The appropriate Government is empowered to prohibit continuation of lock out or strike as the case may be.
- Chapter V-A and V-B of the Act contained detailed procedure regarding layoff, retrenchment, transfer of undertaking, closure of undertaking, etc. There are some variations in the procedure depending upon the number of employees employed in the Establishment.

- Section – 33 of the Act lays down that the service conditions of the workmen shall remain unchanged during the Pendency of the Conciliation Proceedings before the Conciliation Officer or both or any proceedings before an Arbitrator or a Labour Court, or a Tribunal or National Tribunal, in respect of an Industrial Dispute. However, the Employer is at liberty to take action with regard to the matters not connected with the dispute. The Section also permits action by the Employer with the approval or permission as the case may be with regard to any disciplinary action against the workmen.
- The Acts prohibits unfair labour practice on part of the workmen as well as the Employers and the Schedule to the Act list the various Acts which could be construed as unfair labour practices on the part of the workmen as well as the Employer.

- A grievance redressal machinery shall be constituted in establishment having 20 or more workmen with one stage appeal.
- Labour court has power to order reinstatement of a dismissed or retracted workman.
- Industrial Tribunal and Labour Court are empowered to transmit any award, order or settlement to a civil court having jurisdiction and such civil court shall execute the award, order or settlement as if it were degree passed by it.

## Trade Unions Act, 1926

- The Act provides for Registration of Trade Unions and defines the Law relating to Registration of Trade Unions.
- The General Scheme of the Trade Unions Act is that on compliance with certain stated conditions design to ensure that the Union is a bonafide Trade Union and that adequate safe guards are provides for the rights of its Members be entitled to Registration.
- Only registered Union enjoys the rights and privileges under the Act. Minimum 10 workers of an Establishment can form a Trade Union and apply for Registration. The Employers may also form Association or Union and get it registered under the Act.
- The Union and his members will there upon receive protection in certain cases in respect of both civil and criminal liability.

## Trade Unions Act, 1926 (contd...)

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- The expenditure of Trade Union fund must be limited to the specified trade Union purpose.
- The Act itself does not contain any provision for recognition of a Trade Union functioning in the Establishment or Industry.
- In Maharashtra, there is a statute titled as "Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act", which deals with the Recognition of Trade Unions in Industry.
- Recognition of Union is granted by the Managements to the Unions who satisfy the certain procedure and conditions as prescribed under Code of Discipline. The Code of Discipline is an agreed Code of Conduct between the Employers and the Workers' Organizations at the 16th Session of Indian Labour Conference held in 1958.

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## Apprentices Act, 1961

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- Statutory obligation of employers to train a prescribed number of persons. Apprenticeship is sort of job training.
- Promulgated to promote skilled manpower and provides for the regulation and control of training of apprentices and for the matters connected therewith.
- Number of Apprentices to be engaged by Employer is fixed by Govt against a skill / trade and is based on the ratio of skilled workmen in establishment to Apprentices
- Apprenticeship Contract is required to be signed off between Employer and Apprenticeship Advisor as per the Act
- No obligation on part of the employers to offer them a confirmed job after completion of Apprenticeship.

### Conduct and Discipline

- In all matters of conduct and discipline, the apprentice shall be governed by the rules and regulations applicable to employees of the corresponding category in the establishment
- Labor laws are NOT applicable to Apprentices.

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## Industrial Employment (Standing Orders) Act, 1946

- Act applies to Factories employing more than 50 workmen.
- The Standing Orders Act requires employers to clearly define and publish standing orders (service rules) and to make them known to the employees employed by them.
- Every company covered by this Act is required to have set of certified standing orders which shall be binding on both the employer and the employees.

## Conflict between Standing Orders & Appointment Letter

- The employer cannot enter into an agreement with an employee which is inconsistent with the standing orders of the company. The terms of standing order would prevail over the corresponding terms in the contract of service.
- In the absence of a certified standing orders, the model standing order under the Act, shall be deemed to be adopted by the company

## Cigarettes and Other Tobacco Products , (Prohibition of Advertisement and Regulation of Trade and Commerce , Production , Supply and Distribution) Act, 2003

### DISPLAY OF BOARD

- The Board shall be displayed as specified in schedule 2 of the rules.
- The Board shall contain the warning “ **NO SMOKING AREA – SMOKING HERE IS AN OFFENCE.** ”
- It shall be in ENGLISH or one Indian language as applicable.
- The Board shall be of a minimum size of 60cms X 30cms of white back ground.



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### Cont...

- The Board shall contain a circle of not less than 15 cms outer diameter with a red perimeter of not less than 3 cms wide with a picture, in the centre, of a cigarette or beedi with black smoke and crossed by a red band.
- The width of the red band across the cigarette shall equal the width of the red perimeter.
- The penalty is Rs. 200/- which may increase to Rs. 1000/- depending upon the seriousness of the offence.



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## Prevention of Sexual Harassment at Work Place

### What Is Sexual Harassment?

As defined in the Supreme Court guidelines (Vishakha Vs the State of Rajasthan, August 1997) Sexual harassment includes such unwelcome sexually determined behaviour as:

- Physical contact
- A demand or request for sexual favours
- Sexually coloured remarks
- Showing pornography
- Any other unwelcome physical, verbal or non verbal conduct of a sexual nature e.g. Leering, dirty jokes, sexual remark about a person's body etc.

## *Types of Sexual Harassment*

- **Quid Pro Quo:**  
"This for That"
- **Hostile Work Environment:**  
"Intimidating Factors"



## What is Sexual Harassment ?

### Quid Pro Quo

- Employment situation based upon giving or not giving a sexual favor
- Failure to hire or promote
- Awards, employment opportunities

### Hostile Work Environment

Is to intimidate or to harass based on:

- Jokes
- Pictures
- Conversation
- Other acts of a sexual nature

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## “UNWELCOMED” The Key Word

Unwanted



Unsolicited

Offensive

Unlawful

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## Guidelines

- It is the duty of the employer or other responsible persons in the work places or other institutions
  - To prevent sexual harassment
  - To provide mechanisms for resolution of complaints.
- All women who draw a regular salary, receive an honorarium, or work in a voluntary capacity in the government, private sector or unorganised sector come under the purview of these guidelines.

## Complaints Mechanism

- All work places should have an appropriate complaints mechanism with a complaints committee, special counselor or other support services.
- The complaints committee must be headed by a woman and not less than half its members should be women.

## Complaints Mechanism

- The committee should include an NGO/ individual familiar with the issue of sexual harassment.
- The complaint procedure must be time bound.
- Confidentiality must be maintained.
- Complainants/witnesses should not experience victimization/discrimination during the process

## Preventive Steps

- Sexual harassment should be affirmatively discussed at workers' meetings, employer-employee meetings, etc.
- Guidelines should be prominently displayed to create awareness of the rights of female employees
- The employer should assist persons affected in cases of sexual harassment by outsiders
- Central and state governments must adopt measures including legislation to ensure that private employers also observe guidelines.
- Names and contact numbers of members of the complaint committee must be prominently displayed.

## What To Do If You Experience Sexual Harassment

- Tell the person the behavior is unwanted, unwelcomed or unsolicited and to stop
- Keep a record
- Ask co-workers if they observed the behavior
- Tell someone – Supervisor / Manager / Human Resource Dept.



## Employers' Responsibilities

- Recognise sexual harassment as a serious offence
- Recognise the responsibility of the company/ factory/workplace to prevent and deal with sexual harassment at the workplace
- Recognise the liability of the company etc. for sexual harassment by the employees or management
  - Employers are not necessarily insulated from that liability because they were not aware of sexual harassment by the staff.

## Employers' Responsibilities

- Formulate an anti-sexual harassment policy. This should include –
  - A clear statement of the employer's commitment to a workplace free of unlawful discrimination and harassment.
  - Clear definition of sexual harassment (using examples) and prohibition of such behaviour as an offence.
  - Constitution of a complaints committee to investigate, mediate, counsel and resolve cases of sexual harassment N.B. The Supreme Court guidelines envisage a pro-active role for the complaints committee and PREVENTION of sexual harassment at work is a crucial role. It is thus imperative that the committee must consist of persons who are sensitive and open to the issues faced by women.

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## Employers' Responsibilities

### Cont...

- A statement that anyone found guilty of harassment after investigation will be subject to disciplinary action.
- The range of penalties that the complaints committee can levy against the offender.
- Explicit protection of the confidentiality of the victim of harassment and of witnesses
- A guarantee that neither complainant nor witnesses will be subjected to retaliation.

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## Employers' Responsibilities

- Publish the policy and make copies available at the workplace. Discuss the policy with all new recruits and existing employees. Third party suppliers and clients should also be aware of the policy.
- Conduct periodic training for all employees, with active involvement of the complaints committee.

## Employers' Duty

Freedom from sexual harassment is a condition of work that an employee is entitled to expect.

# Women's Rights at Workplace are Human Rights



# THANK YOU