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COMPLIANCE KIT

POSH Compliance Kit for Indian Employers

Everything you need to comply with the Sexual Harassment of Women at Workplace Act, 2013. ICC setup, POSH policy template, complaint process, annual return checklist, and penalty reference.

Updated June 2026 14 Pages FY 2025-26

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10+
Employee Threshold
ICC mandatory for 10+ employees

90
Days to Complete Inquiry
Section 11, POSH Act 2013

50K
Penalty for Non-Compliance
Rs 50,000 fine (Section 26)

7
Sections in This Kit
ICC to annual return

3yr
ICC Member Tenure
Maximum term (Section 4)

01 Who Must Comply

Applicability of the POSH Act, 2013

10+	All	2013
Employee Threshold	Industries Covered	Act Effective Since
POSH Act 2013, S.4	*S.2(o) - workplace definition*	*Gazette notification 9 Dec 2013*

✓ **Verify your establishment has 10 or more employees** — Mandatory

Count all employees: permanent, temporary, contractual, daily wage, part-time, interns, and volunteers. The 10-employee threshold includes all categories.

POSH Act 2013, Section 4(1)

✓ **Confirm your workplace type is covered under the Act**

Covered: offices, factories, restaurants, retail stores, hospitals, hotels, construction sites, farms, sports institutes, and any place visited by employees during employment. Also covers government, private sector, and unorganised sector.

POSH Act 2013, Section 2(o)

✓ **Check if you have branches or multiple locations**

Each branch or office with 10+ employees needs its own ICC. If a branch has fewer than 10, employees can access the ICC of the nearest branch or the Local Complaints Committee (LCC).

POSH Act 2013, Section 6

✓ **Include contract workers in your count**

The principal employer is responsible for POSH compliance for contract workers working at their premises. This is frequently missed by businesses using staffing agencies.

POSH Act 2013, Section 2(f)

No Exemptions for Small Businesses

Restaurants, retail shops, salons, clinics, and offices with 10+ employees must comply. The Act doesn't exempt any industry or business type. 'We're too small' is not a valid defence during an inspection.

02 Setting Up the ICC

Internal Complaints Committee: composition, tenure, and rules

ICC Composition (Mandatory)

- ✓ **Appoint a Presiding Officer: senior woman employee** — Mandatory
  Must be a senior-level woman employed at the workplace. If no senior woman employee is available, appoint a woman from another office or branch of the same employer.
  POSH Act 2013, Section 4(2)(a)

- ✓ **Appoint minimum 2 employee members**
  Preferably employees committed to the cause of women or with legal knowledge or social work experience. At least one should be a woman.
  POSH Act 2013, Section 4(2)(b)

- ✓ **Appoint 1 external member from NGO or legal background** — Mandatory
  Must be from an NGO, association committed to women's causes, or a person familiar with issues of sexual harassment. Cannot be an employee of the organisation.
  POSH Act 2013, Section 4(2)(c)

- ✓ **Ensure at least 50% of ICC members are women**
  This is a hard requirement. An ICC with majority male members is not validly constituted under the Act.
  POSH Act 2013, Section 4(2)

- ✓ **Set ICC tenure: maximum 3 years per member**
  Members cannot serve beyond 3 years. Mark the constitution date and set a reminder for reconstitution.
  POSH Act 2013, Section 4(3)

ICC Documentation

- ✓ **Issue a formal order constituting the ICC**
  Written order signed by the employer or authorised person. Include: member names, designations, roles (Presiding Officer/Member/External Member), and date of constitution.

- ✓ **Display ICC members' names and contact details at the workplace**
  Must be displayed at a conspicuous place. Include name, designation, phone number, and email of each ICC member.
  POSH Act 2013, Section 19(a)

- ✓ **Communicate ICC details to all employees**
  Email, WhatsApp group, notice board, or employee handbook. Every employee should know who the ICC members are and how to reach them.

- ✓ **Set up a dedicated email ID for the ICC**
  A confidential email (e.g., icc@company.com) for receiving complaints. Personal email IDs of members should not be used for official complaints.

Finding an External Member

Contact your local District Women and Child Development office, Bar Council, or search for NGOs working on women's rights in your city. Many advocates and retired HR professionals offer this service. Budget Rs 2,000 to Rs 5,000 per ICC meeting for the external member's honorarium.

03 POSH Policy Essentials

What your anti-sexual harassment policy must include

✓ **Define sexual harassment as per Section 2(n) of the Act** — Critical

Five forms: (1) physical contact and advances, (2) demand or request for sexual favours, (3) sexually coloured remarks, (4) showing pornography, (5) any other unwelcome physical, verbal, or non-verbal conduct of sexual nature.

POSH Act 2013, Section 2(n)

✓ **Include both quid pro quo and hostile work environment**

Quid pro quo: implied or explicit promise of favourable treatment in employment. Hostile environment: conduct that creates an intimidating, offensive, or hostile work environment.

POSH Act 2013, Section 3(2)

✓ **State the complaint filing process clearly**

Who can file (aggrieved woman or her legal heir/relative), where to file (ICC), how to file (written complaint), and the 3-month time limit (extendable by 3 months).

POSH Act 2013, Section 9

✓ **Describe the inquiry procedure and timelines**

Conciliation option within first stage. Formal inquiry if conciliation fails or is not opted for. 90-day completion deadline. Interim relief available.

POSH Act 2013, Sections 10-13

✓ **List possible actions against the respondent**

Written apology, warning, withholding promotion, withholding pay rise, termination, community service. Actions as per service rules or as recommended by ICC.

POSH Act 2013, Section 13(3)

✓ **Include confidentiality clause**

Identity of complainant, respondent, and witnesses cannot be disclosed to the public, press, or media. Breach of confidentiality: Rs 5,000 penalty.

POSH Act 2013, Section 16

✓ **Add a non-retaliation clause**

No employee shall be subject to retaliation for filing a complaint, being a witness, or cooperating with an inquiry. Retaliation itself is a violation.

✓ **Include the policy in the employee handbook or offer letter**

Every new joiner should receive and acknowledge the POSH policy. Existing employees should sign an acknowledgement annually.

Policy Display

The POSH policy must be displayed at a conspicuous place at the workplace (Section 19(a)). Print it. Pin it on the notice board. Don't bury it in a 200-page employee handbook that nobody reads.

04 Complaint and Inquiry Process

Step-by-step: from complaint to resolution

Receiving the Complaint

- ✓ **Accept written complaint from the aggrieved woman** — Day 0
  Must be in writing. If the complainant cannot write, the Presiding Officer or any ICC member must help. Oral complaints should be reduced to writing.
  POSH Act 2013, Section 9(1)

- ✓ **Check if complaint is within 3-month time limit**
  Complaint must be filed within 3 months of the last incident. ICC can extend by another 3 months if satisfied with the reasons for delay.
  POSH Act 2013, Section 9(1)

- ✓ **Acknowledge receipt and provide copy to respondent**
  Send copy of complaint to the respondent within 7 working days. The respondent gets 10 working days to submit a written reply.
  POSH Rules 2013, Rule 7

Conciliation (Optional First Step)

- ✓ **Offer conciliation if the complainant requests it**
  Conciliation is voluntary. Cannot involve monetary settlement. If conciliation succeeds, record the settlement terms. No further inquiry needed.
  POSH Act 2013, Section 10

- ✓ **If conciliation fails, proceed to formal inquiry**
  If no settlement is reached within the conciliation period, or if the complainant doesn't want conciliation, the ICC starts a formal inquiry.

Formal Inquiry

- ✓ **Start inquiry: hear both parties with evidence**
  ICC operates with the powers of a civil court for summoning witnesses, requiring documents, and recording evidence. Both parties get a fair hearing.
  POSH Act 2013, Section 11(3)

- ✓ **Complete inquiry within 90 days** — 90 Days
  From the date the complaint is received. This is a statutory timeline. Delays can be challenged.
  POSH Act 2013, Section 11(4)

- ✓ **Grant interim relief if needed**
  Transfer complainant or respondent, grant leave to complainant, restrain respondent from reporting on the complainant's work. ICC recommends, employer implements.
  POSH Act 2013, Section 12

- ✓ **Submit inquiry report to employer within 10 days of completion** — 10 Days
  Report includes findings, recommendation for action (if harassment is proved), and recommended compensation.
  POSH Act 2013, Section 13(1)

Post-Inquiry Action

- ✓ **Employer must act on ICC recommendations within 60 days** — 60 Days
  Cannot sit on the report. If the employer disagrees with ICC findings, reasons must be recorded in writing.
  POSH Act 2013, Section 13(4)

✓ **If harassment is proved: take action against respondent**

As per service rules: warning, withholding promotion, withholding pay rise/increment, termination, or community service. Compensation to complainant (deducted from respondent's salary).

POSH Act 2013, Section 13(3)

✓ **If complaint is found to be false or malicious**

ICC may recommend action against the complainant. But: mere inability to prove the complaint doesn't make it false. The Act protects honest complaints.

POSH Act 2013, Section 14

05 Employer Obligations Checklist

Everything the Act requires you to do (Section 19)

- ✓ **Constitute an Internal Complaints Committee (ICC)** — Mandatory
  Mandatory for every workplace with 10+ employees. Must meet composition requirements.
  POSH Act 2013, Section 4

- ✓ **Display POSH policy at a conspicuous place**
  In local language and English. Include: ICC member names, complaint process, and penal consequences of sexual harassment.
  POSH Act 2013, Section 19(a)

- ✓ **Conduct POSH awareness programmes annually** — Annual
  Orientation for new joiners. Annual refresher for all employees. Separate session for ICC members on inquiry procedures.
  POSH Act 2013, Section 19(b)

- ✓ **Provide a safe working environment**
  Adequate lighting, CCTV in common areas (not private spaces), separate restrooms, and safe transport for late-night shifts.
  POSH Act 2013, Section 19(c)

- ✓ **Treat sexual harassment as misconduct under service rules**
  Add sexual harassment as a defined misconduct in your standing orders, HR policy, or employment terms.
  POSH Act 2013, Section 19(i)

- ✓ **Assist complainant in filing FIR if requested**
  If the complainant wants to file a police complaint, the employer must provide support. Cannot discourage or prevent it.
  POSH Act 2013, Section 19(f)

- ✓ **Ensure no retaliation against complainant or witnesses**
  Monitor for subtle retaliation: changed shifts, reduced responsibilities, social isolation. Retaliation itself is actionable.

- ✓ **Maintain records of all complaints and inquiries**
  Complaint details, inquiry proceedings, findings, and actions taken. Required for annual return filing. Store securely and confidentially.

- ✓ **File annual return with the District Officer** — 31 Jan
  Number of complaints received, disposed, pending beyond 90 days, and nature of action taken. Due by 31 January each year (for the previous calendar year).
  POSH Act 2013, Section 21

- ✓ **Reconstitute ICC before the 3-year tenure expires**
  Mark the constitution date. Set a calendar reminder at 2.5 years. Reconstitute with fresh or renewed appointments before expiry.
  POSH Act 2013, Section 4(3)

06 Annual Return & Record-Keeping

What to file, when, and with whom

Requirement	Details	Deadline	Legal Reference
Annual Return Filing	File with District Officer of your area	31 January each year	POSH Act 2013, S.21
Complaints Received	Total number of complaints filed during the year	Include in annual return	S.21(a)
Complaints Disposed	Number resolved (conciliation + inquiry)	Include in annual return	S.21(b)
Cases Pending > 90 Days	Number of inquiries exceeding the 90-day limit	Include in annual return	S.21(c)
Awareness Programmes	Whether training/workshops were conducted	Include in annual return	S.21(d)
Nature of Action Taken	Actions taken on each complaint (warning, termination, etc.)	Include in annual return	S.21(e)

✓ **Prepare annual return before 31 January** — 31 Jan

Covers the previous calendar year (January to December). Even if zero complaints were received, you must still file the return.

✓ **Maintain complaint register (confidential)**

Record: date received, parties involved (coded for privacy), nature of complaint, inquiry status, outcome, and action taken.

✓ **Keep inquiry reports for minimum 3 years**

ICC inquiry reports, evidence records, and witness statements. Required during inspections.

✓ **Store POSH training attendance records**

Date of training, attendee list with signatures, trainer details, topics covered. Proves compliance with Section 19(b).

✓ **Archive ICC constitution orders**

Original appointment orders, external member agreement, and any reconstitution orders.

Zero Complaints? Still File.

Many employers skip the annual return because 'we had no complaints.' The return is mandatory regardless. A nil return shows compliance. No return at all shows non-compliance and invites scrutiny.

07 Penalties & Common Mistakes

What happens when you don't comply

Violation	Penalty	Legal Reference
Not constituting ICC	Fine up to Rs 50,000	POSH Act 2013, S.26(1)
Repeat offence (after first penalty)	Double the penalty + cancellation of business licence or registration	POSH Act 2013, S.26(2)
Not filing annual return	Penalty under S.26 (same as not constituting ICC)	POSH Act 2013, S.21 read with S.26
Breach of confidentiality	Fine of Rs 5,000	POSH Act 2013, S.16
Not acting on ICC recommendations	Deemed non-compliance, penalty under S.26	POSH Act 2013, S.13(4)

7 Common POSH Compliance Mistakes

- ✓ **No ICC constituted at all** — Critical
  The most basic violation. Rs 50,000 fine on first offence. Licence cancellation on repeat. Restaurants, shops, clinics: if you have 10+ employees, you need an ICC.
- ✓ **ICC without an external member**
  An ICC without the mandatory external member is not validly constituted. The entire inquiry process can be challenged.
- ✓ **ICC tenure expired and not reconstituted**
  Members serve a maximum 3-year term. After expiry, the committee ceases to exist legally. Set a reminder at 2.5 years.
- ✓ **No POSH awareness training conducted**
  Section 19(b) requires the employer to organise workshops and awareness programmes. Annual training for all employees. Separate training for ICC members.
- ✓ **POSH policy not displayed at the workplace**
  Section 19(a) requires display at a conspicuous place. A PDF on the shared drive doesn't count. Print it. Pin it on the notice board.
- ✓ **Annual return not filed with District Officer**
  Due by 31 January every year. Even nil returns (zero complaints) must be filed. Many employers don't know this obligation exists.
- ✓ **No documented complaint process**
  Employees don't know how to file a complaint, who the ICC members are, or what the timelines are. The process must be written, distributed, and visible.

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