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PART II

Statutory Notifications (S.R.O.)

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW, JUSTICE AND HUMAN RIGHTS

NOTIFICATION

Islamabad, the 31st October, 2013

S.R.O. 973 (I)/2013.—In exercise of the powers conferred by section 13 of the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010), read with section 22 of the Federal Ombudsmen Institutional Reforms Act, 2013 (XIV of 2013), the Federal Government is pleased to make the following rules, namely:—

1. **Short title and commencement.**— (1) These rules may be called the Protection against Harassment of Women at the Workplace (Filing and Disposal of Complaints) Rules, 2013.

(2) They shall come into force at once.

2. **Definitions.**— In these rules, unless there is anything repugnant in the subject or context,-

(a) "Act" means the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010);

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- (b) "Appellate Authority" means an Ombudsman to whom an appeal against decision of a Competent Authority lies under section 6 of the Act;
- (c) "Office" means the Office of the Ombudsman; and
- (d) "staff" means an officer or an employee of the Office appointed under sub-section (2) of section 7 of the Act and includes advisers, commissioners, consultants, experts, fellows, interns, liaison officers, bailiffs and other staff.

3. **Designation of the Competent Authority.**—(1) Each organization shall, under sub-section (4) of section 3 of the Act, designate, if not already designated, a competent authority.

(2) A copy of the order designating the Competent Authority shall invariably be sent to the Ombudsman, Federal Government and the respective Provincial Government, as the case may be, and shall be circulated to all employees of the organization.

(3) There shall be no discrimination on the basis of sex, while designating a Competent Authority.

4. **Filing of a complaint.**—(1) A complainant may, under sub-section (1) of section 8 of the Act, prefer a complaint either to the Inquiry Committee through any of its members or the Ombudsman.

(2) The employer shall, with direction of strict confidentiality, be informed by the Inquiry Committee or, as the case may be, the Ombudsman about filing of the complaint immediately after its filing or receipt.

(3) The complainant shall have the option to withdraw with the permission of the Inquiry Committee or, as the case may be, the Ombudsman, his or her complaint at any stage before any decision thereon.

5. **Contents of the complaint.**—(1) The complaint may contain—

- (a) comprehensive statement of all facts with all necessary details relating to an incident of harassment at the workplace;
- (b) all documents, evidence or other supporting material, in whatever form it may be, such as audio, video or documentary or in any other form;
- (c) names of witnesses; and
- (d) any other material, detail, evidence or person which will be relied upon or have any relation with the incident.

(2) The complainant shall undertake that information contained in his or her complaint is true and correct to the best of his or her knowledge and belief.

(3) A party may amend his or her complaint or defence statement, as the case may be, at any stage of the inquiry before decision.

(4) The complaint shall be duly signed by the complainant or if he or she cannot sign shall affix thumb impression.

6. Inquiry Committee.—(1) Each organization shall, in accordance with sub-section (2) of section 3 of the Act, constitute an Inquiry Committee to inquire into complaints under the Act.

(2) Where any person resigns from membership of the Inquiry Committee owing to his or her transfer from or leaving the organization or inability to perform his or her functions due to any other reasonable cause, another person shall be appointed as member in his or her place by the organization.

7. Procedure of Inquiry Committee.—(1) Subject to section 4 of the Act, the Inquiry Committee shall—

- (a) ensure a non-discriminatory environment for holding inquiry;
- (b) ask for documents or other information relating to incident of reported harassment and consider the same;
- (c) not make public any document or statement of any party to inquiry and shall maintain high standards of confidentiality as provided under clause (a) of sub-section (3) of section 4 of the Act; and
- (d) make suitable arrangements for safe custody of all documents, record or other material relating to proceedings of inquiry.

(2) All documents, information, record, proceedings and findings of the inquiry Committee shall be confidential and no copies thereof shall be provided to any person not related to the case under the Act or the rules made thereunder.

8. Recommendations and findings.—(1) The recommendations of Inquiry Committee shall be comprehensive and supported with logical arguments and substantiated by available evidence, if any.

(2) The findings and recommendations of Inquiry Committee shall, as provided in sub-section (4) of section 4 of the Act; also recommend major or minor penalties with justification for imposition of such penalty or fine.

(3) The Inquiry Committee may also recommend suitable compensation to complainant in case of loss of salary or other damages.

(4) The inquiry Committee may provide copy of its report to both the parties free of cost.

9. Imposition of penalty.—(1) On receipt of recommendations and findings of the Inquiry Committee or the Ombudsman, the competent authority shall, within one week of receipt of the recommendations and findings, impose the penalty recommended by the Inquiry Committee or Ombudsman or otherwise refer back the case to Inquiry Committee with observations to be addressed immediately.

(2) Copies of the final order or notification containing a penalty imposed under sub-rule (1) shall be forwarded to the accused and the complainant as well as to the Inquiry Committee or the Ombudsman, as the case may be.

10. Procedure before the Ombudsman.—(1) The show cause notice under sub-section (2) of section 7 of the Act shall contain allegations leveled against the accused by the complainant and be accompanied with a copy of the complaint.

(2) On receipt of written defence of the show cause notice, the Ombudsman shall formulate conclusions to reach some recommendations or findings.

(3) Where the Ombudsman is unable to reach any conclusions as mentioned in sub-rule (2), he shall issue a notice summoning the parties to appear before him on the time and date prescribed in such notice.

(4) On the time and date as prescribed under sub-rule (3), the accused and the complainant shall appear before the Ombudsman with all supporting material, documents, information or other substantial evidence in their custody.

(5) The Ombudsman may also call witnesses and any record from any authority, organization of the accused and the complainant or any other person having some information or document to appear before him and produce such documents, information or to give oral evidence before the Ombudsman.

(6) On perusal of the documents, evidence of the witnesses and hearing the parties, if any, the Ombudsman shall formulate his recommendations and findings.

(7) In the absence of any express provision regarding conduct of proceedings or inquiry, the Ombudsman shall have the power to conduct the proceedings or inquiry as he deems fit and just according to circumstances of the case to arrive at a conclusion and formulate his recommendations and findings in the case.

(8) The Ombudsman shall decide a case under the Act as expeditiously as possible and send to the competent authority a copy of his decision for implementation.

(9) The recommendations, findings and decisions of the Ombudsman shall be comprehensive and supported with logical arguments and substantiated by available evidence.

(10) The decision of the Ombudsman shall also clearly mention major or minor penalties as provided in sub-section (4) of section 4 of the Act with justification for imposition of such penalty.

(11) Copies of the decision shall be sent to the competent authority and both the complainant and accused.

(12) The management or the competent authority of an organization shall, as directed by the Ombudsman, implement the orders of the Ombudsman within fourteen days from receipt of the orders or within the period specified by the Ombudsman and shall, within five days of execution of such order, inform the Ombudsman, the accused and the complainant of such implementation.

11. Psycho-social counselling or medical treatment or additional medical leave.—The Inquiry Committee or the Ombudsman may, to the employer, recommend appropriate remedial measures in cases where the complainant or the accused is in a state of trauma, depression or other psychological shock.

12. Advice and counselling to parties.—(1) To provide necessary advice and assistance to each of the complainant and the accused under clause (b) of sub-section (3) of section 4 of the Act, the employer may nominate a counselling officer, possessing knowledge of law, human psychology and friendly and mature social behavior, who shall impartially render the advice and assistance.

(2) The counselling officer may, in the light of socio-cultural requirement of the area and organization, recommend to the employer all necessary steps for avoidance of harassment of any kind at work place.

13. Form of appeal.—(1) Every person preferring an appeal under section 6 of the Act shall do so separately and in his or her own name.

(2) Every appeal preferred under the Act shall contain all material statements and arguments relied upon by the appellant.

(3) The appeal shall be complete in all respects and shall not contain any matter which is derogatory and accusatory or disrespectful or in improper language.

(4) Every appeal shall be signed or affixed with thumb impression by the appellant and submitted directly to the appellate authority.

(5) Contents of the appeal shall be verified by the aggrieved party to be true to his or her knowledge and belief.

14. **Repeal.**—The Protection against Harassment of Women at the Workplace Rules, 2010 are hereby repealed.

[No. FOS-3(24)/2013-Admn.]

ALI AHMED,
Section Officer.