

**No. 15013/23/2013 – SC/ST–W**  
**Government of India**  
**Ministry of Home Affairs**  
**Centre State Division**  
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**5<sup>th</sup> Floor, NDCC-II Building**  
**Jai Singh road, New Delhi**  
**the 28<sup>th</sup> May, 2013**

**To**

**The Additional Chief Secretary/ Principal Secretary (Home)**

**Sub : Protection of Children from Sexual Offences Act 2013**

**Sir/Ma'am,**

As you may be aware, the Protection of Children from Sexual Offences Act 2012 (POCSO) has come into force from 14<sup>th</sup> November, 2012. The Protection of Children from Sexual Offences Act, 2012 has been drafted to strengthen the legal provisions for the protection of children from sexual abuse and exploitation. For the first time, a special law has been passed to address the issue of sexual offences against children. The salient features of the landmark act are appended below :

1. The Protection of Children from Sexual Offences Act, 2012 defines a child as any person below the age of 18 years and provides protection to all children under the age of 18 years from the offences of sexual assault, sexual harassment and pornography.
2. The Act provides for stringent punishments, which have been graded as per the gravity of the offence. The punishments range from simple to rigorous imprisonment of varying periods. There is also provision for fine, which is to be decided by the Court
3. An offence is treated as “aggravated” when committed by a person in a position of trust or authority of child such as a member of security forces, police officer, public servant, etc.

4. **Punishments for Offences covered in the Act are:**

- **Penetrative Sexual Assault (Section 3) on a child** – Not less than seven years which may extend to imprisonment for life, and fine (**Section 4**)
- **Aggravated Penetrative Sexual Assault (Section 5)** – Not less than ten years which may extend to imprisonment for life, and fine (**Section 6**)
- **Sexual Assault (Section 7) i.e. sexual contact without penetration** – Not less than three years which may extend to five years, and fine (**Section 8**)
- **Aggravated Sexual Assault (Section 9) by a person in authority** – Not less than five years which may extend to seven years, and fine (**Section 10**)
- **Sexual Harassment of the Child (Section 11)** – Three years and fine (**Section 12**)
- **Use of Child for Pornographic Purposes (Section 13)** – Five years and fine and in the event of subsequent conviction, seven years and fine (**Section 14 (1)**)

5. The Act provides for the establishment of Special Courts for trial of offences under the Act, keeping the best interest of the child as of paramount importance at every stage of the judicial process. The Act incorporates child friendly procedures for reporting, recording of evidence, investigation and trial of offences. These include:

- Recording the statement of the child at the residence of the child or at the place of his choice, preferably by a woman police officer not below the rank of sub-inspector
- No child to be detained in the police station in the night for any reason.
- Police officer to not be in uniform while recording the statement of the child
- The statement of the child to be recorded as spoken by the child
- Assistance of an interpreter or translator or an expert as per the need of the child
- Assistance of special educator or any person familiar with the manner of communication of the child in case child is disabled

- Medical examination of the child to be conducted in the presence of the parent of the child or any other person in whom the child has trust or confidence.
  - In case the victim is a girl child, the medical examination shall be conducted by a woman doctor.
  - Frequent breaks for the child during trial
  - Child not to be called repeatedly to testify
  - No aggressive questioning or character assassination of the child
  - In-camera trial of cases
6. The Act recognizes that the intent to commit an offence, even when unsuccessful for whatever reason, needs to be penalized. The attempt to commit an offence under the Act has been made liable for punishment for upto half the punishment prescribed for the commission of the offence.
  7. The Act also provides for punishment for abetment of the offence, which is the same as for the commission of the offence. The Act makes it mandatory to report commission of an offence and also the recording of complaint and failure to do so would make a person liable for punishment of imprisonment for six months or / and with fine.
  8. For the more heinous offences of Penetrative Sexual Assault, Aggravated Penetrative Sexual Assault, Sexual Assault and Aggravated Sexual Assault, the burden of proof is shifted to the accused. This provision has been made keeping in view the greater vulnerability and innocence of children. At the same time, to prevent misuse of the law, punishment has been provided for making false complaint or proving false information with malicious intent. Such punishment has been kept relatively light (six months) to encourage reporting. If false complaint is made against a child, punishment is higher (one year) **(Section 22)**.
  9. The media has been barred from disclosing the identity of the child without the permission of the Special Court. The punishment for breaching this provision by media may be from six months to one year **(Section 23)**.

10. For speedy trial, the Act provides for the evidence of the child to be recorded within a period of 30 days. Also, the Special Court is to complete the trial within a period of one year, as far as possible **(Section 35)**.
11. To provide for relief and rehabilitation of the child, as soon as the complaint is made to the Special Juvenile Police Unit (SJPU) or local police, these will make immediate arrangements to give the child, care and protection such as admitting the child into shelter home or to the nearest hospital within twenty-four hours of the report. The SJPU or the local police are also required to report the matter to the Child Welfare Committee within 24 hours of recording the complaint, for long term rehabilitation of the child.
12. The Act casts a duty on the Central and State Governments to spread awareness through media including the television, radio and the print media at regular intervals to make the general public, children as well as their parents and guardians aware of the provisions of this Act.
13. The National Commission for the Protection of Child Rights (NCPCR) and State Commissions for the Protection of Child Rights (SCPCRs) have been made the designated authority to monitor the implementation of the Act.

A copy of the act is attached for your perusal and necessary action.

**(S Suresh KUMAR)**  
**Joint Secretary (CS)**  
**Tel:23438100**