

# Law for the Prevention of Sexual Harassment 5758 1998<sup>i</sup>

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## 1. Purpose of the Law

The purpose of this law is to prohibit sexual harassment in order to defend human dignity, freedom, and privacy, and to promote gender equality.

## 2. Definitions (Amendment: 5764)

In this law -

“In service” – Service in the defense forces or national service, where no employer-employee relationship exists between them and those who serve them;

“Demonstrated” – In words or behavior, and provided that there is no reasonable doubt about the meaning of the behavior;

“Reference” - Written, orally, by visual or auditory means, including by computer or computer materials, or behavior;

“Labor Equal Opportunities Act” - The Labor Equal Opportunities Act, 5748-1988;

“Penal Code” - Penal Code, 5737-1977;

“Helpless” - As defined in section 368A of the Penal Code;

“Security Forces” - Israel Defense Forces, Israel Police, Prison Service and other defense organizations of the country;

“Computer” and “computer materials” - As defined in the Computer Law, 5755-1995;

“Labor relations framework” - The workplace, or place where activity is conducted on behalf of the employer, while working, or utilizing the authority in labor relations anywhere;

“Contractor personnel” - As defined in section 1 of the Employment of Employees by Manpower Contractors Law, 5756-1996;

“Minor” - A person under 18 years;

“National service” - As defined in Paragraph (3) (b), the definition of “child” in section 238 of the National Insurance Law [consolidated version], 5755-1995.

### **3. Sexual Harassment and Persecution (Amendment: 5764, 5767, 5770)<sup>ii</sup>**

(a) Sexual harassment is any of the following acts:

(1) Extortion, as defined in section 428 of the Penal Code, when the act that the person is required to perform has a sexual nature;

(2) Indecent assault as defined in sections 348 and 349 of the Penal Code;

(3) Repeated propositions of a sexual nature, addressed to a person who showed the harasser that he is not interested in the said propositions;

(4) Repeated references addressed to a person, which are focused on his sexuality, when that person showed the harasser that he is not interested in the said references;

(5) A humiliating or debasing reference addressed to a person in relation to his gender or sexuality, including sexual orientation;

(6) Suggestions or references as stated in paragraphs (3) or (4), addressed to those enumerated in sub-paragraphs (a) through (g), in the circumstances specified in those sub-paragraphs, even

if the harassed person did not show the harasser that he is not interested in the above propositions or references:

(A) For a minor or helpless person – while taking advantage of his position of authority, dependence, education or treatment and if the minor is under the age of 15 years – even without exploiting such relationships, provided that the harasser is not a minor;

(B) For a patient, in the framework of mental health, medical, or paramedical treatment – while exploiting the patient's dependence on the caregiver in this "Mental Health" sub-paragraph – as defined in section 347a of the Penal Code;

(C) For an employee in the framework of an employment relationship, and for a person serving in the framework of such a service – the exploitation of authority in labor relations or in service.

(b) Persecution is harm of any kind stemming from sexual harassment, or a complaint or lawsuit that is filed because of sexual harassment.

#### **4. Prohibition of Sexual Harassment and Persecution**

No person will sexually harass or persecute another person.

#### **5. Sexual Harassment and Persecution – Offences (Amendment: 5766)**

(a) A person who sexually harasses, pursuant to section 3 (a) (3) through (6) – is liable to two years' imprisonment.

(b) A person who persecutes another, pursuant to section 3 (b) – is liable to three years' imprisonment.

(c) A person sexually harasses another, as in sub-section (a) and persecutes him as in sub-section (b) – is liable to four years imprisonment.

(d) Sections 2A and 2B Amendment Procedure (Examination of Witnesses) Law, 5718-1957, shall apply to the interrogation of a person injured by an offense according to this section and to his testimony regarding the aforesaid offense.

(e) The provisions of section 352 of the Penal Code shall apply to the publication of the name of the person injured by an offense or who complained of being the victim of a crime, under this section.

#### **6. Sexual Harassment and Persecution – Civil Wrongs (Amendment: 5767-5772)**

(a) Sexual harassment and persecution are civil wrongs and the Torts Ordinance (New Version), shall apply to them subject to the provisions of this Law.

(b) The court may award compensation of up to 50,000 NIS due to sexual harassment or persecution, without proof of damage; this amount will be updated on the 16th of each month, in accordance with the rate of increase of the new index compared to the base index; for purposes of this sub-section:

"Index" – The Consumer Price Index published by the Central Bureau of Statistics;

“New Index” – The monthly index for the month preceding the update;

“Basic index” – The index for March 1998.

(c) The court and the Labor Court, as the case may be, shall not make a claim for injustice under this section or under section 7, that is filed after the end of the period prescribed in section 5 of the statute of limitations, created in 5718-1958 from the day that the grounds for it arose, and the provisions of sections 18a and 18b of the said law shall not apply to such a claim.

## **7. Measures Taken by the Employer (Amendment: 5764)**

Section 7 of the Equal Opportunities Law, 5748-1988.

7(a) “In the framework of employee relations, the employee or his delegate will not harm any employee or job seeker in the matters listed in section 2 or in any other way, when the source of the damage is from one of these:

(1) Sexual harassment of an employee or job seeker by the employer, his delegate, or another employee:

In this Act, “sexual harassment” – as defined in the Sexual Harassment Act, 5758-1998 (hereafter, the Law for Preventing Sexual Harassment), provided the matter of the injury stems from sexual harassment under section 3(a) and (4) of the said law, it is enough that there be only one proposition or reference.

(2) A complaint or claim of the employee due to such a violation in this section.

(3) One employee assisting another employee in connection with a complaint or claim for a violation under this section.

(b) When there is harm stemming from a complaint or a claim under subsection (a) (2) and (3), the provisions of section 6 (b) apply.

(c) The provisions of this section shall apply, in respect of employers and employees obligations, mutatis mutandis, and as applicable, to the person who actually employs contractor personnel, and a person employed as aforesaid.”

Where an employer has not complied with his obligations under subsections (a) (1) and (2) and (b), he shall be liable for a civil wrong under section 6 or for a civil wrong for harm caused as provided in section 7 of the Equal Opportunities Law, committed by his employee or a person in charge on his behalf, even if he is not his employee, within the realm of labor relations.

(d) The Minister of Justice – with the agreement of the Minister of Labor and Social Affairs and with the approval of the Knesset Committee for the Advancement of the Status of Women – shall prescribe:

(1) Rules for compliance with an employer's obligations under this Section; the aforesaid rules may be couched in general terms or for categories of workplaces, for branches of employment or for professions;

(2) A sample set of rules as an example for employers (hereafter referred to as sample rules).

(e) For the purpose of compliance with the employer's obligations under subsection (b), the employer shall make the necessary modifications to the sample rules.

(f) For the purposes of this section, "persecution" – includes harm caused as provided in Section 7 of the Equal Opportunities Law.

(g) The provisions of this section shall also apply, mutatis mutandis, to institutions that provide academic or vocational training, for adults and for this purpose such institutions shall be treated as an employer, the teacher or lecturer shall be treated like an employee or person in charge on behalf of the employer, and a trainee or student shall be treated like an employee.

## **8. Not Publishing Rules – An Offense**

Where an employer fails to publish the set of rules as provided in section 7(b), he shall be liable to a fine and to an additional fine for each week in which the offence continues, of the amount prescribed in section 61(c) of the Penal Law.

## **9. Expanding the Scope**

Sexual Harassment Prevention Regulations (employer obligations) (Amendment) 5774-2013

Pursuant to my authority under sections 7 (d) and 13 of the Prevention of Sexual Harassment Law, 5758-1998, hereafter; the Law), with the consent and approval of the Minister for the Economy and the Knesset Committee for Advancement of the Status of Women, I enact these regulations.

Amendment to regulation 9 1. Section 9 (a) of the Prevention of Sexual Harassment (employer obligations), 5758-1998, at the end should be "In addition to these regulations, an institution of the said institutions shall apply the following provisions:

1. The institution will ensure that training activities and information as stated in regulation 2 (d) will be held at least once a year;
2. The institution shall bring the policies to the knowledge of each new employee;
3. The responsible person appointed by the institution under regulation 4, soon after being appointed, will undergo a study session of not less than 25 hours, which will deal, inter alia, with the essence of the appointment, knowledge of the Prevention of Sexual Harassment Law, methods of prevention, and how to handle complaints;
4. The institution as defined in the Student Rights Law, 5777-2007 shall submit annually to the Authority for Advancement of the Status of Women and the Knesset Committee for Advancement of the Status of Women a report detailing the number of complaints that were submitted.

## **10. Labor Court Jurisdiction**

(a) The Labor Court shall have sole jurisdiction to hear civil proceedings under sections 6, 7, and 9, on any of the following subjects -

- (1) Sexual harassment committed by an employer, or an appointee of the employee, or committed by one employee to another, within the framework of labor relations;
- (2) Persecution of the employee or appointee of the employee, towards an employee, or of one employee towards another, within the framework of labor relations;
- (3) The employer's responsibility as stated in section 7 for sexual harassment or persecution, which a person appointed by the employer has committed against to his employee, or by an employee towards another employee, within the framework of labor relations.

(b) The provisions of this section shall not apply to a civil proceeding for sexual harassment or persecution committed in service.

(c) The provisions of sections 10, 10A, 12, and 13 of the Equal Opportunity Act shall apply to proceedings under this section.

## **11. State Law**

This law applies to the State for the purposes of the provisions of sections 7 and 8, the defense forces shall, where no employer/employee relationship exists between them and those serving in them, be treated like an employer and the person serving in them shall be treated like an employee.

## **12. Saving of Laws**

Nothing in this Law shall derogate from the provisions of any enactment.

## **13. Implementation and Regulations**

The Minister of Justice is responsible for implementation of this Law and may, with the approval of the Knesset Committee for Advancement of the Status of Women, make regulations on any matter relating to its implementation.

## **14. Obligation to Make Regulations**

Regulations for the purposes of section 7 shall first be submitted to the Knesset Committee for Advancement of the Status of Women within five months from the date of publication of this law.

**15. (Incorporated in the Equal Opportunities Law, 5748-1988).**

**16. (Incorporated in the Labor Courts Law, 5729-1969).**

**17. (Incorporated in the Courts of Justice Law (consolidated version), 5744-1984).**

### **18. Commencement**

(A) This Law will come into effect after six months from the date of publication.

(B) Notwithstanding sub-section (a) section 7 shall only come into force one month after the publication of the regulations thereunder.

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<sup>i</sup> Book of Laws 5758, 166; 5764, 294, 346; 5766, 54; 5767, 86, 387, 453; 5770, 570; 5772 166.

<sup>ii</sup> Section 19 on the rights of persons with disabilities employed while rehabilitating law (Temporary Order), 5767-2007 (Book of Laws 5767, 454) provides for amendment of section 3(a)(6):

“19. Temporary and annual reports to the committee

This law will remain in effect for five years from the date of its publication; the Minister shall report to the Knesset Labor Committee for Social Affairs and Health, on March 1st each year, about the extent and scope of the integration and employment of people with disabilities while rehabilitating, in regular places of employment.

(1) For the person in charge at the institution and how to care for them.