

F.No:2-1/2014-NCW (A)
Government of India
Ministry of Women & Child Development
NCW Admn.

Subject: Amendments to the National Commission for Women Act, 1990.

The National Commission for Women (NCW) is a statutory body constituted under the National Commission for Women Act, 1990. The NCW is empowered to examine matters relating to the Constitutional and legal safeguards for women, recommend amendment thereto and look into complaints. The increasing incidence of crimes against women, which among other things may be linked to contemporary social scenario, calls for a mechanism or Institution that can effectively look into deprivation and violation of women's rights and take up with appropriate authorities with a view to ensuring timely action including prosecution of the accused. Though National Commission for Women is vested with the power to look into the complaints and take suo-moto notice of matters relating to deprivation of women's rights, the powers available to the commission under the present Act are very limited and the Act does not explicitly make the proceedings of commission as judicial proceedings. A need has, therefore, been felt to amend the NCW Act, 1990 so as to give additional powers to the NCW.

2. The Ministry of Women and Child Development, therefore, proposes to bring amendments to the National Commission for Women Act 1990 as given in the table below. Civil Society Organisations, Non Governmental Organisations, other interested groups and individuals may send their comments/ suggestions on the proposed amendments to the Ministry at ab.joshi@nic.in with a copy to ghanshyam.devanani@nic.in and dvk rao@nic.in within 15 days from publication of this notice on the website of this Ministry i.e. by 5.30PM on 15.07.2014. The title of the e-mail must mention the subject as mentioned above.

New Delhi
Dated 01.07.2014



(A.B. Joshi)

Additional Secretary to the Government of India

Tel: 011-2338 6227

Fax: 011-2338 1800

e-mail: ab.joshi@nic.in

Proposed amendments to National Commission for Women Act, 1990.

Section	Existing Provision	Proposed Amendment	Rationale
1 (2)	It extends to the whole of India except the State of Jammu and Kashmir	It extends to the whole of India Provided that it shall apply to the State of Jammu & Kashmir only in so far as it pertains to the matters relatable to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State.	As the NCW receives a number of representations from J&K regarding violation of women's rights, the Commission's presence in the State is vital for safeguarding the rights of women in that State. The jurisdiction of the Commission, therefore, needs to be extended to the State of Jammu and Kashmir also.
2	Definitions- In this Act, unless the context otherwise refers- (a) "Commission" means the National Commission for Women constituted under Section3; (b) "Member" means a Member of the Commission and includes the Member-Secretary; (c) "Prescribed" means prescribed by rules made under this Act	Definitions- In this Act, unless the context otherwise refers- (a) "Commission" means the National Commission for Women constituted under Section3; (b) "Member" means a Member of the Commission and includes the Member-Secretary; (c) "Prescribed" means prescribed by rules made under this Act; (d) "Chairperson" means Chairperson of the Commission; (e) "Complaint" means any written petition, grievance communication etc. received in the Commission or by the Chairperson, any Member or any officer , from an aggrieved woman or a group of women; (f) "Complainant" means an aggrieved woman or a group of women who have	To bring clarity of the terms occurring in various provisions of the Act for better interpretation.

		made a complaint personally or any individual or organization who has made a complaint on behalf of an aggrieved woman or a group of women; (g) "Notification" means a Notification published in the official Gazette; (h) "Regulation" means Regulations framed by the Commission under Section----of the Act.	
3 (2)	The commission shall consist of – (a) a chairperson committed to the cause of women, to be nominated by the Central Government; (b) five Members to be nominated by the Central Government from amongst persons of ability, integrity and standing who have had experience in law or legislation, trade unionism, management of an industry or organisation committed to increasing the employment potential of women, women's voluntary organisations(including women activists), administration, economic development, health, education or social welfare; Provided that atleast one Member each shall be from amongst persons belonging to Scheduled Castes and Scheduled Tribes respectively; (c) a Member Secretary to be nominated by the Central Government who shall be- (i) an expert in the field of management, organisational structure or sociological	The commission shall consist of – (a) a Chairperson and five Members to be nominated by the Central Government as per the procedure prescribed under the rules Provided that at least one Member each shall be from amongst persons belonging to Scheduled Castes and Scheduled Tribes respectively; (b) a Member Secretary to be nominated by the Central Government who shall be an officer who is a member of a civil service of the Union or an all-	This helps in bringing transparency in identifying the incumbents and serves the cause of public accountability. Since, Member Secretary of the Commission is required to

	movement, or (ii) an officer who is a member of a civil service of the Union or an all-India service or holds a civil post under the Union with appropriate experience.	India service or holds a civil post under the Union with appropriate experience.	coordinate with various authorities and State Governments from time to time, it is felt desirable to fill the position only by a civil servant for effective functioning.
4 (4)	A vacancy caused under subsection(2) or otherwise shall be filled by fresh nomination	(i) In the event of occurrence of vacancy in the office of chairperson and members by reason of death, resignation or otherwise, the Central Government to fill the vacancy within 90 days and the person so appointed shall hold office for remainder of the term of office of the previous incumbent in whose place, he/she is appointed. (ii) Senior most Member by length of tenure shall act as chairperson or discharge the functions in the absence of the Chairperson owing to leave or otherwise	This ensures continuity.
5(1)	The Central Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.	(i) The Central Government shall provide the Commission with such officers and employees as may be necessary in addition to a police officer not below the rank of Director General of Police for the efficient performance of the functions of the Commission under this Act	(i) Availability of a police officer brings quality in the investigation by the Commission.

		(ii) Notwithstanding any thing contained in the sub clause(i), subject to availability of resources, the Commission may engage social scientists, research scholars, lawyers, academicians and other professionals etc. on contractual basis for any project, task or purpose duly observing the provisions of General Financial Rules,2005 of the Union of India, as amended from time to time	ii) This will facilitate the Commission to access required professional advice and inputs while discharging its functions.
10	Functions of the Commission-(1) a. Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws; b. present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards; c. make in such reports recommendations for the effective implementation of those safeguards for improving the conditions of women by the Union of any State; d. review, from time to time, the existing provisions of the Constitution and other	Functions of the Commission-(1) a. Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws; b. present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards; c. make in such reports recommendations for the effective implementation of those safeguards for improving the conditions of women by the Union of any State; d. review, from time to time, the existing	Existing section 10(4) is deleted here and given a placement in the proposed chapter relating to investigation.

	laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations; e. take up cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities; f. look into complaints and take suo moto notice of matters relating to :- i. deprivation of women's rights; ii. non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development; iii. non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities;	provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations; e. take up cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities; f. investigate into complaints and take suo moto notice of matters relating to :- i. deprivation of women's rights; ii. non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development; iii. non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities; g. call for special	To bring clarity, the term 'look into' is proposed to be replaced by the term 'investigate'.
--	---	--	---

	g. call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal; h. undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impending their advancement, such as, lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity; i. participate and advise on the planning process of socio-economic development of women; j. evaluate the progress of the development of women under the Union and any State; k. inspect or cause to be inspected a jail, remand home women's institution or other place of custody where women are kept as prisoners or otherwise, and take up with the concerned authorities	studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal; h. undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impending their advancement, such as, lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity; i. participate and advise on the planning process of socio-economic development of women; j. evaluate the progress of the development of women under the Union and any State; k. inspect or cause to be inspected a jail, remand home women's institution or other place of custody where women are	
--	---	--	--

	for remedial action, if found necessary; l. fund legislation involving issues affecting a large body of women; m. make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil; n. any other matter which may be referred to it by Central Government; (2) the Central Government shall cause all the reports referred to in clause (b) of sub-section (1) to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations. (3) Where any such report or any part thereof relates to any matter with which any State Government is concerned, the Commission shall forward a copy of such report or part to such State Government who shall cause it to be laid before the Legislature of the State along with	kept as prisoners or otherwise, and take up with the concerned authorities for remedial action, if found necessary; l. fund legislation involving issues affecting a large body of women; m. make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil; n. any other matter which may be referred to it by Central Government; (2) the Central Government shall cause all the reports referred to in clause (b) of sub-section (1) to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations. (3) Where any such report or any part thereof relates to any matter with which any State Government is concerned, the	
--	--	--	--

	a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations. (4) The Commission shall, while investigating any matter referred to in clause (a) or sub-clause(I) of clause (f) of sub-section (1), have all the powers of a civil court trying a suit and, in particular in respect of the following matters, namely:- a. summoning and enforcing the attendance of any person from any part of India and examining him on oath; b. requiring the discovery and production of any document; c. receiving evidence on affidavits; d. requisitioning any public record or copy thereof from any court or office; e. issuing commissions for the examination of witnesses and documents; and	Commission shall forward a copy of such report or part to such State Government who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.	
--	--	---	--

	f. any other matter which may be prescribed.		
New section (under new chapter - Investigation)	10 (4) The Commission shall, while investigating any matter referred to in clause (a) or sub-clause(i) of clause (f) of sub-section (1), have all the powers of a civil court trying a suit and, in particular in respect of the following matters, namely:- a. summoning and enforcing the attendance of any person from any part of India and examining him on oath; b. requiring the discovery and production of any document; c. receiving evidence on affidavits; d. requisitioning any public record or copy thereof from any court or office; e. issuing commissions for the examination of witnesses and documents; and f. any other matter which may be prescribed.	I. The Commission shall, while investigating any matter referred to in clause (a) or sub-clause(i) of clause (f) of sub-section (1), have all the powers of a civil court trying a suit and, in particular in respect of the following matters, namely:- a. summoning and enforcing the attendance of any person from any part of India and examining him on oath; b. requiring the discovery and production of any document; c. receiving evidence on affidavits; d. requisitioning any public record or copy thereof from any court or office; e. issuing commissions for the examination of witnesses and documents; and f. any other matter which may be prescribed. g. Ordering costs in cases where there has been wilful	This will enable enhanced compliance with the orders of the Commission issued while discharging its functions under Section 10(1)(a) and 10(1)(f)(i) of the Act.

		disobedience to any order of the commission, issued under section 10(1) (a) or 10(1)(f)(i) II. Penalty for default: The Commission may compel the attendance of any person to whom a summon has been issued under section 13 and for that purpose may- i. Issue warrant for his arrest ii. Impose a fine upon him(not exceeding Rs.5000) for every incidence of default. III. The commission shall have the power to require, subject to any privilege which may be claimed by the person under any law for the time being in force, to furnish any information in respect of the subject matter of the enquiry who shall be deemed to be legally bound to furnish such information with in the meaning of section 176 and 177 of IPC. IV. The Commission shall be deemed to be a civil court when any offence as described in section 175, 178, 179,180 or section 228 of the IPC is committed in the view or presence of the Commission, the Commission may, after recording the facts, forward any case to a Magistrate having jurisdiction to try the same and the Magistrate to	
--	--	---	--

		whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973. V. Every proceeding before the commission shall be deemed to be a judicial proceeding with in the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code, and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. VI. The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to subject matter of enquiry may be found, and may seize any such document or take extracts or copies there from subject to provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.	
New Section		Inquiry into Complaints- The Commission while Inquiring into the	A well laid-down procedure will

		complaints may- (i) Call for information or report from the Central Government or any State Government other authority or organisation subordinate thereto within such time as may be specified by it: Provided that if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the compliant on its own; (ii) If, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the compliant and inform the complainant accordingly; (iii) Without prejudice to anything contained in clause (i), if the Commission considers necessary, having regard to the nature of the compliant, initiate an inquiry; (iv) Notwithstanding anything in sub-clauses (i) (ii) & (iii) call for further particulars or information from any person or authority against whom any complaint has been made or initiate an enquiry. V. The Commission may take any of the following steps during or upon the completion of an	facilitate smooth conduct of business and will prevent avoidable litigation.
--	--	---	---

		inquiry/investigation/hearing held under this Act, where prima facie the inquiry discloses violation of women's rights provided under the constitution of India and other laws, by a public servant, the Commission may recommend to the concerned Government or authority:- (a) to initiate proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons; (b) approach the Supreme Court or the High Court concerned for such directions, orders or writ as the Court may deem necessary; (c) Recommend to the concerned Government or authority at any stage of the inquiry for the grant of such immediate interim relief to the complaint or the members of her family as the Commission may considered necessary.	
New Section		Acts done in Good faith- No prosecution or other legal proceeding shall lie against any member of the Commission or any officer or other employee of the Commission or any person acting under directions of the Commission, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules, regulations or orders made there under.	This insulates the functionaries from facing legal proceedings in respect of acts done in good faith as per the provisions of the Act.