

TPI INDIA LIMITED

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PREVENTION OF SEXUAL HARASSMENT (POSH) OF WOMEN AT THE WORKPLACE

INTRODUCTION

This policy has been framed in accordance with the provisions of “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” and rules framed thereunder (hereinafter “the Act”).

Accordingly, while the policy covers all the key aspects of the Act, for any further clarification reference shall always be made to the Act and the provisions of the Act shall prevail.

THE POLICY ON THE PREVENTION OF SEXUAL HARASSMENT OF WOMEN AT WORKPLACE

TPI India Limited intends to provide protection against sexual harassment of women at the workplace and the prevention and redressal of complaints of sexual harassment and matters related to it.

IMPORTANT DEFINITIONS

➤ Aggrieved Woman

A woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by any person.

All women working or visiting TPI India Limited (workplace) whether in the capacity of regular, temporary, adhoc, or daily wages basis is protected under the Act. It includes all women whether engaged directly or through an agent including a contractor, with or without the knowledge of the principal employer. They may be working for remuneration, on a voluntary basis, or otherwise. Their terms of employment can be express or implied.

➤ Sexual Harassment

It includes any one or more of the following unwelcome acts or behavior (whether directly or by implication), namely:

- i. Physical contact and advances, or
- ii. A demand or request for sexual favours, or
- iii. Making sexually coloured remarks, or
- iv. Showing pornography, or
- v. Any other unwelcome physical, verbal, or nonverbal conduct of sexual nature.

If any of the following circumstances occurs or is present in relation to or connected with any act or behavior of sexual harassment among other circumstances, it may amount to sexual harassment

- vi. Implied or explicit promise of preferential treatment in her employment, or
- vii. Implied or explicit threat of detrimental treatment in her employment, or
- viii. Implied or explicit threat about her present or future employment status, or
- ix. Interference with her work or creating an intimidating or offensive or hostile work environment for her, or

x. Humiliating treatment is likely to affect her health or safety.

➤ **Workplace**

The office premises of the Company, any place visited by the employee arising out of or during the course of employment, including transportation provided by the TPI India Limited for the purpose of commuting to and from the place of employment, will also constitute a workplace.

Extended workplace

Extended workplaces include those scenarios where an official event is taking place in a social setting, and endorsed or financed by the TPI India Limited.

➤ **Internal Committee**

This means an Internal Complaints Committee constituted under section 4 of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

DUTIES OF TPI INDIA LIMITED [EMPLOYER]

➤ Every employer shall—

- a. provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- b. display at any conspicuous place in the workplace, the penal consequences of sexual harassment; and the order constituting, the Internal Committee under subsection (I) of section
- c. organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;
- d. provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry;
- e. assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;
- f. make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section (1) of section 9;
- g. provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being 45 of 1860. in force;
- h. cause to initiate action, under the Indian Penal Code or any other law for the 45 of 1860. time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
- i. treat sexual harassment as misconduct under the service rules and initiate action for such misconduct;
- j. monitor the timely submission of reports by the Internal Committee.

INTERNAL COMPLAINTS COMMITTEE

The Internal Committee shall consist of the following members

- Presiding Officer
Who shall be a woman employed at a senior level at the workplace from amongst the employees
- 1st Members
Amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge
- 2nd Members
Amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge
- 3rd Members
From amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:

COMPLAINT OF SEXUAL HARASSMENT

- Any aggrieved woman may make, in writing, a complaint of sexual harassment to the Internal Committee so constituted, within a period of **three months** from the date of incident and in case of a series of incidents, within a period of **three months** from the date of the **last incident**. Provided that where a such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing;
Provided further that the Internal Committee or, as the case may be, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such that prevented the woman from filing a complaint within the said period.
- Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

CONCILIATION

- The Internal Committee may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation: Provided that no monetary settlement shall be made as a basis of conciliation.
- Where a settlement has arrived as stated above the Internal Committee shall record the settlement so arrived and forward the same to the Board to take action as specified in the recommendation.
- The Internal Committee, as the case may be, shall provide copies of the settlement as recorded to the aggrieved woman and the respondent.
- Where a settlement is arrived as above no further inquiry shall be conducted by the Internal Committee.

INQUIRY INTO COMPLAINT

- The Internal Committee shall, where the respondent is an employee, proceed to make an inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed Internal Committee shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exists, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code, and any other relevant provisions of the said Code where applicable;
- Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police;
- Provided further that where both the parties are employees, the parties shall, during the course of an inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.
- Notwithstanding anything contained in section 509 of the Indian Penal Code, the court may, when the respondent is convicted of the offense, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15. 3. For the purpose of making an inquiry under sub-section (I), the Internal Committee. or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:

- a. summoning and enforcing the attendance of any person and examining him on oath;
 - b. requiring the discovery and production of documents; and
 - c. any other matter which may be prescribed.
- The inquiry shall be completed within a period of ninety days.

ACTION DURING PENDENCY OF INQUIRY

- During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Committee, may recommend to the Board to;
 - a. transfer the aggrieved woman or the respondent to any other workplace; or
 - b. grant leave to the aggrieved woman up to a period of three months, or
 - c. grant such other relief to the aggrieved woman as may be prescribed.
- The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.
- On the recommendation of the Internal Committee Board shall implement the recommendations made and send the report of such implementation to the Internal Committee.

INQUIRY REPORT

- On the completion of an inquiry under this Act, the Internal Committee shall provide a report of its findings to the Board, within a period of ten days from the date of completion of the inquiry, and such report be made available to the concerned parties.
- Where the Internal Committee arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.
- Where the Internal Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend it to the Board.
 - i. to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;
 - ii. to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:
- Provided that in case the employer is unable to make a such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct the respondent to pay such sum to the aggrieved woman:
- Provided further that in case the respondent fails to pay the sum referred to in clause (II), the Internal Committee or, as the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

- The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him. Punishment for false or malicious complaints and false evidence.

PUNISHMENT FOR FALSE OR MALICIOUS COMPLAINTS AND FALSE EVIDENCE

- Where the Internal Committee arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the Board to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:
- Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:
- Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.
- Where the Internal Committee, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the board to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

DETERMINATION OF COMPENSATION

- For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee shall have regard to
 - a. the mental trauma, pain, suffering, and emotional distress caused to the aggrieved woman;
 - b. the loss of the career opportunity due to the incident of sexual harassment;
 - c. medical expenses incurred by the victim for physical or psychiatric treatment;
 - d. the income and financial status of the respondent
 - e. feasibility of such payment in a lump sum or in installments.

PROHIBITION OF PUBLICATION OR MAKING KNOWN CONTENTS OF COMPLAINT AND INQUIRY PROCEEDINGS

- Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made, the identity and addresses of the aggrieved woman, respondent, and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press, and media in any manner:
- Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity, or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

PENALTY FOR PUBLICATION OR MAKING KNOWN CONTENTS OF COMPLAINT AND INQUIRY PROCEEDINGS

- Where any person entrusted with the duty to handle or deal with the complaint, inquiry, or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section 16, he shall be liable for a penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.

APPEAL

- Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or subsection (1) or sub-section (2) of section 14 or section 17 of the Act or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.
- The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations

COMMITTEE TO SUBMIT ANNUAL REPORT

- The Internal Committee, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.
- The District Officer shall forward a brief report on the annual reports received under subsection (1) to the State Government.