

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE ACT, 2013

POLICY

1. To lay guidelines against sexual harassment, sexual discriminating and protection of dignity of employees (on roll or outsourced) within the premises (work place).

PURPOSE

2. (a) To prevent, prohibit and punish sexual harassment within the premises (work place).
(b) To create a work place free from sexual harassment, intimidation and exploitation.
(c) To foster a work environment that promotes employee dignity and is free from sexual discrimination.
(d) To develop a mechanism to prevent, prohibit and redress grievance of sexual harassment.

DEFINITIONS

3. (a) **Sexual Harassment** : An unwelcome behavior such as advances, request for favour, inappropriate verbal or physical conduct with explicit or implicit sexual undertone for recruitment, employment, participation, evaluation or promotion and so on.
(b) **Sexual Intimidation** : Unwelcome behavior also includes loaded comments, remarks, jokes, letters, phone calls, SMS, E Mails, gestures, physical contact, derogatory sounds or displays, lurid stares, stalking, displaying pornographic material with the purpose of interfering or affecting the work or performance of the other person.
(c) **Sexual Exploitation** : An unwelcome condition with explicit or implicit request for favour with sexually related behavior, creating hostile environment interfering with work or performance or for recruitment, employment, evaluation or promotion.
(d) **Sexual Assault** : When a person uses body or any part of the body or any object as extension of the body in relation to other person without consent or against the other gender or person with sexual connotations or undertones as the explicit or implicit intent or purpose such conduct shall amount to sexual assault.
(e) **Misconduct** : A willful or deliberate act with malicious intent; inconsistent with the reasonable instructions and the terms and conditions of the employee's contract of employment that causes serious risk to health, safety or reputation of another person or to the reputation, viability and profitability of the employer.



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MEANING

4. (a) Sexual harassment shall amount to employee misconduct under the conduct and service rules and regulations under Shops and Establishment Act – 1948 as amended.

(b) The reasonable perception of the aggrieved person shall be the basis to decide that the conduct complained against had been unwelcome, objectionable and disadvantageous to the reputation of the complainant and had sexual connotations or undertones.

ABBREVIATIONS

5. Abbreviations are as follows:
MD- Managing Director / Owner.
HOD-Heads of Department.
HR-Human Resources.
NGO-Non Governmental Organisation.

SCOPE

6. To lay guidelines against sexual harassment, sexual discriminating and protection of dignity of employees (on roll or outsourced) within the premises (work place).

RESPONSIBILITY

7. HOD, HR Department, Anti - Sexual Harassment Committee.

DISTRIBUTION

8. All Locations & Departments.

PROCEDURE

9. ANTI - SEXUAL HARASSMENT COMMITTEE

- (a) **Composition of the Committee :** The committee shall consist of at least five members. Four members of the committee shall be women. One of the member shall be from outside the premises. The committee shall be composed as under:-

- (i) Member – 4 (Including Chairperson)
- (ii) Member – 1 (External Member)



(b) **Selection of the Committee Members :** The Chairperson of the committee may be selected from the employees with sufficient seniority, experience, knowledge of gender rights and objective analytical skills. Out of the two members one shall be from outside who does not draw salary from the company (may be from an NGO) and the second member shall be from the employees and shall be secretary/convenor of the committee. The committee members may be nominated by the MD.

(c) **Time Span of Committee :** The committee members shall normally hold office for a period of three years.. In case the Committee violates the provisions of section 14 of The Prohibition of Sexual Harassment of Women at Work Places Act – 2010, the existing committee shall be dissolved and a new committee shall be constituted.

(d) **Frequency of Meeting :** The committee shall meet immediately on receipt of a complaint in writing. However the committee shall normally meet every six months to review the prevailing working environment of the company and various safety and preventive measures instituted by the company against sexual harassment.

(e) **Jurisdiction of the Committee :** Jurisdiction of the Committee shall be restricted to the premises and the company employees or as decided by MD.

(f) **Accountability:** The chairperson of the committee shall be directly responsible to MD. A report on the performance of the committee shall be submitted to MD annually.

(g) **Duties of the Committee :** The following are the duties of the committee:-

- (i) The committee shall consider only those complaints, which have been submitted in writing.
- (ii) The committee shall maintain a registry of all complaints received, their current status and final disposal of each case.
- (iii) The committee shall try to settle the complaint through mutual reconciliation only if the complainant agrees for it in writing (Annexure – “A”).
- (iv) The committee shall investigate the complaint if reconciliation is not reached.
- (v) The committee shall objectively and thoroughly inquire in to the matter and shall call witnesses it deems necessary to arrive at any conclusion.
- (vi) The committee shall submit its report to MD within 90 days of receipt of complaint.
- (vii) The committee shall recommend disciplinary action against complainant in case of malicious and motivated complaints.
- (viii) The role of the committee is only recommendatory based on objectivity of the facts brought out through diligent investigation.
- (ix) The committee shall review the prevailing working environment of the company with regard to sexual sensitivities and gender safety and may suggest appropriate preventive and prohibitive measures periodically to MD.
- (x) The committee shall submit an annual report to MD on its performance.



COMPLAINT PROCEDURE

(h) **Registration of Complaint** : Sexual harassment shall be immediately reported to Sexual Harassment Committee and it shall be registered as follows:-

- (i) The aggrieved person must complain in writing to Sexual Harassment Committee.
- (ii) The details of the complainant, the nature of alleged sexual harassment, its date time and place of occurrence, name of the accused and those of witnesses, if mentioned shall be recorded in a register kept for this purpose. The original complaint shall be filed separately.
- (iii) All complaints shall be registered in a chronological order and numbered. The chronology of the complaint number shall continue for the calendar year. It shall start afresh every year.
- (iv) If the complainant is not in a position to write, the Committee shall render all necessary help to reduce the complaint of the person in writing.
- (v) In case of physical or mental incapacity or death, the legal heirs of the employee may prefer the complaint to the committee.

(b) **Processing of Complaint**. Once a written complaint has been registered, the committee after explaining all aspects of the incident with due sensitivity and consideration of the nature of the incident and the facts before it, and after satisfactorily explaining all queries of the complainant may ask the complainant whether a settlement of the complaint shall be acceptable. The committee shall then proceed as follows:-

(i) **Complainant Consents for Reconciliation**

- (aa) The committee may seek written consent of the aggrieved person to settle the matter between the complainant and the respondent through reconciliation as per Annexure – "A".
- (ab) Once a settlement is reached, the committee shall record the details of settlement as Reconciliation Statement.
- (ac) The reconciliation statement shall be forwarded to the MD for approval and appropriate directions on the reconciliation statement.
- (ad) The approved copies of reconciliation statement shall be provided to the complainant and the respondent.
- (ae) The approved original reconciliation statement shall be retained by Sexual Harassment Committee and a copy of the same shall be endorsed to HR department.
- (af) Once reconciliation has been reached, the matter shall not be investigated further.



(i) **Complainant Does Not Consent for Reconciliation**

(aa) The Committee shall proceed to inquire into the matter in accordance with the conduct and service rules and regulations under Shops and Establishment Act – 1948 as amended.

(ab) The inquiry shall be completed as early as possible, but not later than 90 days from the date of receipt of complaint.

(ac) During the pendency of inquiry, the committee may recommend transfer of the complainant or the respondent to any other place, or grant leave to the complainant, which if the case is decided in favour of the complainant, shall be in addition to the leave normally available to the employee, or may grant any appropriate relief to the complainant. However, female employee shall not be suspended or transferred against her will.

(ad) On completion of inquiry, the committee shall submit its findings, conclusion and recommendations to MD.

(ae) When the committee does not find any substance in the complaint and the allegation has not been proved, the committee shall recommend no action to be taken against the respondent. If the committee feels that the allegations were malicious and motivated to tarnish the image and reputation of the respondent, it may recommend suitable disciplinary action against the complainant to MD.

(af) When the committee arrives at the conclusion that the allegations against the respondent has been proved, it shall recommend action for misconduct as per conduct and service rules and regulations under Shops and Establishment Act – 1948 as amended to MD.

(ag) MD shall convey decision on the recommendations of the committee within 60 days of the receipt of Committee Report.

CONFIDENTIALITY

10. (i) Right to Information Act – 2005 notwithstanding, the contents of the complaint, identity and address of the complainant, respondent and witnesses, contents of reconciliation statement, contents of inquiry proceedings, conclusion and action taken by the MD shall not be communicated to anybody, press or any mass media including electronic media.



(ii) However, justice secured by the company on the complaint of sexual harassment without disclosing the identities and addresses of the complainant, respondents and witnesses in the form of general information may be disseminated to the company environment.

APPEAL

11. The complainant can prefer an appeal against the award on the sexual harassment complaint within 30 days from the date of award on the findings of inquiry committee to appropriate appellate authority.

DUTIES OF THE EMPLOYER

12. Following are the duties of employer:-

- (a) Provide a safe working environment at the workplace which will include safety from the employees of the establishment as well as third parties coming into contact at the workplace.
- (b) Display at any conspicuous place in the workplace the Office Order on the constitution of Sexual Harassment Committee of the company.
- (c) Undertake workshops and training programs at regular intervals to sensitize staff members
- (d) Provide necessary facilities to the Committee or the Local Committee, as the case may be, to deal with the complaint and conduct enquiry.
- (e) Ensure the attendance of respondent and witnesses before Sexual Harassment Committee
- (f) Make available such information to the Committee or the Local Committee, as the case may be, as it may require with regard to the complaint made.
- (g) Assist the woman if she so chooses in the filing of a criminal complaint in relation to the offence
- (h) Initiate criminal action under the Penal Code or any other law for the time being in force against the perpetrator after the conclusion of the enquiry, or without waiting for the enquiry where the perpetrator is not an employee in the work place where the incident of sexual harassment has taken place.
- (i) Produce details of all complaints of sexual harassment received, the judgments delivered and the action taken to any inspecting authority deputed by the Government for the purpose.



REFERENCES

13. The Prohibition of Sexual Harassment of Women at Work Places Act – 2010

RECORDS AND FORMATS

14. Following records and formats shall be maintained by Sexual Harassment Committee:-

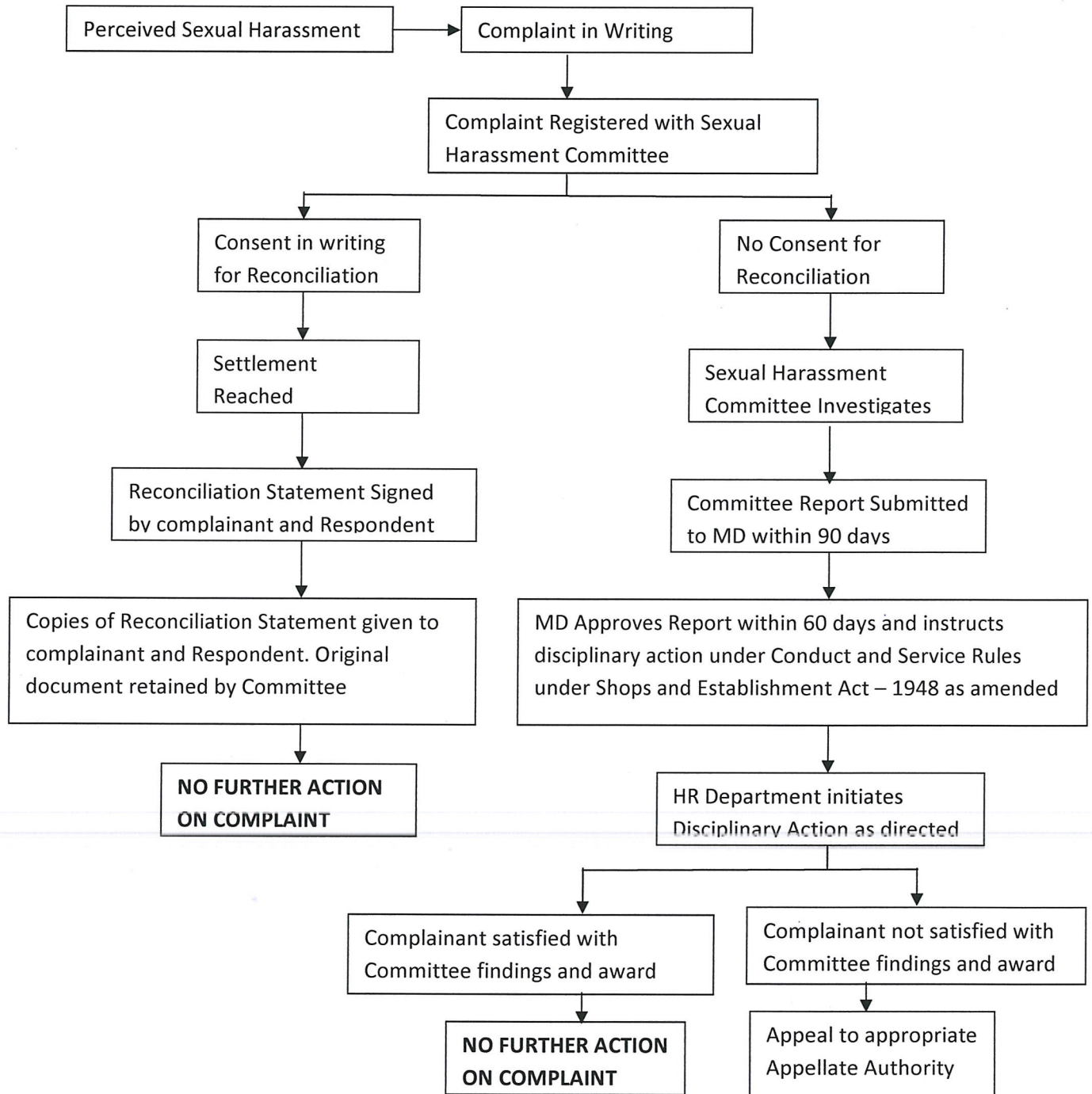
- (a) Register of sexual harassment complaints.
- (b) Complaint in original.
- (c) Consent for reconciliation.
- (d) Reconciliation statement in original.
- (e) Approved Sexual Harassment Investigation Report in original.



For INTERCONT FREIGHT LINERS PRIVATE LIMITED

[Handwritten Signature]
DIRECTOR

FLOW CHART : PROCESS OF SEXUAL HARASSMENT COMPLAINT



Annexure – “A”
(To paragraph 8
(g) (iii) Anti sexual
Harassment
Policy)

