



POLICY AGAINST SEXUAL HARASSMENT

Version Number: 1.3

1.3	Dr. Sujaya Banerjee <i>Chief Talent Officer & Sr. VP Central HR</i>	Updated as per 'The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.	Adil Malia Group President - HR	January 29, 2015 , further updated on June 01, 2018
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1. INTRODUCTION

- 1.1 The right to be protected from sexual harassment and sexual assault is guaranteed by the Constitution of India. This right is reiterated by the Directive Principles of State Policy contained in the Constitution, which are to be construed harmoniously with the fundamental rights.
- 1.2 Crimes against women are an unacceptable violation of several human rights demanding strict punishment with deterrence to prevent similar crimes in future. Considering that sexual harassment of women at the workplace is still rampant in India, Parliament has enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“the Act”).

2. OBJECT OF THE POLICY

- 2.1 The object of the policy is to provide protection against sexual harassment at Essar Shipping Limited (ESL) and for the prevention and redressal of complaint of sexual harassment and for matters connected therewith or incidental thereto as prescribed under the Act.
- 2.2 Whilst this policy will apply for redressal and handling of complaints at Essar Shipping Limited all provisions of the above Act will continue to apply over and above the expressed provisions of the policy.
- 2.3 This Policy has been framed for the purposes of preventing, prohibiting and redressing sexual harassment of female employees at the workplace of Essar Shipping Limited having regard to the provisions contained in the Act, which are based on fundamental principles of justice and fair play.

3. SCOPE AND EFFECTIVE DATE

- 3.1 This Policy extends to all employees of Essar Shipping Limited situated in India and is deemed to be incorporated in the service rules of all employees’.

4. SEXUAL HARASSMENT

- 4.1 Sexual harassment would mean and include 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 non-verbal conduct of sexual nature;

Explanation: In determining whether the behavior or act complaint of is unwelcome, one of the factors to be given due weight shall be the subjective perception of the aggrieved employee.

5. PREVENTION OF SEXUAL HARASSMENT

5.1 No female employee shall be subjected to sexual harassment at any workplace.

5.2 The following circumstances, among other circumstances, if present in any act or behavior of sexual harassment may amount to sexual harassment:

- i. Implied or explicit promise of preferential treatment in her employment; or
- ii. Implied or explicit threat of detrimental treatment in her employment; or
- iii. Implied or explicit threat about her present or future employment status; or
- iv. Interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- v. Humiliating treatment likely to affect her health or safety.

6. DEFINITIONS

6.1 EMPLOYEE

Employee limited for the specific purpose of application of this policy means and includes any women on the rolls of any business of Essar Shipping Limited including those on deputation, contract, temporary, part-time or working as consultants/advisor or by any other such name at any business of Essar Shipping Limited.

6.2 EMPLOYER

Employer means any business of Essar Shipping Limited which has employed the employee for any work at any workplace.

6.3 WORKPLACE

Workplace means any premises where the employee carries on the work of the employer and the areas which are to be deemed as the employer's premises. It will also include any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey.

6.4 AGGRIEVED WOMAN

In relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent.

6.5 RESPONDENT

A person against whom the aggrieved woman has made a complaint.

6.6 SERVICE RULES

Terms and Conditions of Employment, the Model Standing Order as applicable under the provisions of **Industrial Employment (Standing Orders) Act, 1946** and qualified further by Letter of Appointment and other Policies of the Company published and applicable at the time.

7. CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

- 7.1 Essar Shipping Limited shall constitute a Committee to be known as the “Internal Complaints Committee” at its administrative office for its workplace in consultation with Group President - HR.
- 7.2 The Internal Complaints Committee shall consist of four (4) members to be nominated by the employer, of which minimum two (2) members shall be women from amongst employees preferably committed to the cause of women or who have had the experience in social work or have legal knowledge. The Presiding Officer shall be a woman at a senior level at the workplace from amongst the employees. One (1) member shall be from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues related to sexual harassment who shall be paid such fees or allowances for holding the proceedings of the Internal Complaints Committee by the employer as may be prescribed. The Presiding Officer and every member of the Internal Complaints Committee shall hold office for such period, not exceeding three years from the date of their nomination as may be prescribed by the employer.

8. COMPLAINT

- 8.1 Any aggrieved women may make in writing a complaint of sexual harassment at workplace to the Internal Complaints Committee within a reasonable period of time, but not later than three (3) months from the date of the incident and in case of a series of incidents, within a period of three months from the date of last incident. In determining whether the complaint has been made within a reasonable period of time or not, due weight shall be given to the facts and circumstances surrounding the making of such complaint and the personal circumstances of the complainant.
- 8.2 Where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Complaints Committee shall render all reasonable assistance to the woman for making the complaint in writing. 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 may make a complaint in writing.

9. CONCILIATION

- 9.1 The Internal Complaints Committee may, before initiating an inquiry into the complaint and at the request of the aggrieved women take steps to settle the matter between the aggrieved women and the respondent through conciliation, provided that no monetary settlement shall be made as a basis of conciliation.
- 9.2 Where such settlement has been arrived at, the Internal Complaints Committee shall record the settlement so arrived and forward the same to the employer to take action as specified in the recommendation. The copies of such settlement as recorded shall be provided to the aggrieved employee and the respondent.
- 9.3 After such settlement no further inquiry shall be conducted by the Internal Complaints Committee.

10. INQUIRY

- 10.1 Where both the parties (i.e. the aggrieved women and the respondent) are employees, the Internal Complaints Committee may proceed to make an inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent to determine whether a prima facie case exists or not.
- 10.2 For the purpose of making an inquiry into the complaint, the Internal Complaints Committee shall have the same powers as are vested in a civil court when trying a suit in respect of:
- i. Summoning and enforcing attendance of any person and examining him/her on oath;
 - ii. Requiring the discovery and production of documents; and
 - iii. Any other matter which may be prescribed.
- 10.3 The Internal Complaints Committee shall complete the inquiry within a period of ninety (90) days from the date of registration of complaint.
- 10.4 The committee shall meet under the Presiding Officer to hear the complaint & observe the following procedure:
- i. The committee will call the complainant to narrate her complaint & the committee will ask her relevant questions to establish the veracity of her complaint.
 - ii. Thereafter, the committee will request the complainant to adduce primary & secondary evidences, including witnesses, if any, to establish the nature of the complaint.
 - iii. The committee will allow the respondent to cross examine the witnesses and/or review the evidences adduced by the complainant.
 - iv. The respondent will thereafter be asked to explain his position. The committee may ask the respondent relevant questions.
 - v. The respondent will be asked to adduce primary, secondary evidences & witnesses.
 - vi. The complainant would be given an opportunity to cross examine the respondent's witnesses and review any primary and secondary evidences provided before the committee by the respondent.
- 10.5 Where needed the committee may suo moto:
- i. Seek medical, police and legal intervention on case to case basis with the consent of the complainant and Management.
 - ii. Make arrangements for appropriate counseling and/or emotional support/evaluation to the complainant, if found necessary.
- 10.6 The inquiry under **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013** is also deemed to be inquiry conducted under the provisions of **Industrial Employment (Standing Orders) Act, 1946**

11. ACTION DURING PENDENCY OF INQUIRY

11.1 During the pendency of an inquiry, on a written request made by the aggrieved women, the Internal Complaints Committee may recommend to

- i. Transfer the aggrieved women or the respondent to any other workplace; or
- ii. Grant leave to the aggrieved women up to a period of three (3) months; or
- iii. Grant such other relief to the aggrieved women as may be prescribed.

The leave granted to the aggrieved women under this provision of the policy shall be in addition to the leave she would be otherwise entitled.

11.2 The committee shall ensure that:

- i. Safe, accessible and sensitive mechanism for registering complaints
- ii. Objective factual and case relevant enquiries
- iii. Conclude such inquiry within one month and provide a report on conclusion of the inquiry to the Management.

12. INQUIRY REPORT

12.1 Within ten (10) days of the completion of inquiry, the Internal Complaints Committee shall provide a report of its findings to the employer. Such report shall be made available to the concerned parties.

12.2 If the Internal Complaints Committee has arrived at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer that no action is required to be taken in the matter and submit the report of its findings.

12.3 If the Internal Complaints Committee has arrived at the conclusion that the allegation against the respondent has been proved, it shall submit report of its findings and recommend to the employer to take action for sexual harassment as misconduct against the respondent.

12.4 If the Internal Complaints Committee has arrived at the conclusion that the allegation against the respondent is malicious or the aggrieved women or any other person making the complaint has made the complaint knowing it to be false or without believing it to be true or has produced any forged or misleading document, it may recommend to the employer to take action against the aggrieved women in accordance with her service rules. Provided that a mere inability to substantiate any allegation made in the complaint or provide adequate proof in support thereof does not attract punishment for false or malicious complaint. For recommending any punishment, it is mandatory that the malicious intent on the part of the aggrieved women shall be established in an inquiry held for the purpose.

13. DISCIPLINARY ACTION

13.1 Where any misconduct is found by the Internal Complaints Committee, appropriate disciplinary action shall be taken against the respondent as per the applicable Service Rules by the Employer. Disciplinary Action may include but is not limited to transfer, withholding promotion, suspension, written apology, warning, reprimand or censure, withholding of pay rise or increments, undergoing a counselling session, carrying out community service, or terminations of services etc. This action shall be in addition to any legal recourse sought by the aggrieved women.

14. APPEAL

14.1 Any person aggrieved by the recommendations made by the Internal Complaints Committee or non-implementation of such recommendations may prefer an appeal to the Essar Group President - HR in accordance with the service rules applicable to such person.

15. CONFIDENTIALITY

15.1 The contents of the complaint, the identity and addresses of the aggrieved women, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendation of the Internal Complaints Committee, and the action taken by the employer shall not be published, communicated or made known to the public, press and media in any manner, notwithstanding anything contained in the Right to Information Act, 2005. Provided that the information regarding the justice secured to any victim of sexual harassment may be disseminated without disclosing any particulars calculated to lead to the identification of the aggrieved women and witnesses. Any person who contravenes this confidentiality provision shall be liable for Disciplinary Action in accordance with his/her service rules.

16. BAR AGAINST THE COURT TAKING COGNIZANCE

16.1 There is a bar against the court taking cognizance of any offence punishable under the Act or any rules made thereunder unless a complaint is made by the aggrieved woman employee or any person authorized by the Internal Complaints Committee.

17. OTHER LAW PROTECTED

17.1 The provisions of the Act are supplementary to the provisions of any other law for the time being in force in India.

18. DUTIES OF EMPLOYER

18.1 Essar Shipping Limited shall provide:

- i. A safe working environment at the workplace, which shall include safety from persons coming into contact at the workplace, display at any conspicuous place in the workplace, the penal consequences of sexual harassment and the order constituting the Internal Complaints Committee.
- ii. Organize workshops and awareness programs at regular intervals for sensitizing the employees with the provisions of this Policy and orientation programs for the members of Internal Complaints Committee,
- iii. Provide necessary facilities and assistance to the Internal Complaints Committee for dealing with the complaint and conducting an inquiry,
- iv. Assist in securing the attendance of respondents and witnesses before the Internal Complaints Committee,
- v. Make available such information to the Internal Complaints Committee as may be required with regards to the complaint made,
- vi. Provide assistance to the aggrieved women if she chooses to file a complaint for the offence under Indian Penal Code or under any other law,
- vii. Cause to initiate action under the Indian Penal Code or under any other law against the perpetrator who is not the employee in the workplace at which the incident of sexual harassment took place, if the aggrieved woman employee so desires,
- viii. Treat sexual harassment as a major misconduct under the service rules and initiate action for such misconduct;
- ix. Monitor the timely submission of reports by the Internal Complaints Committee; and Provide information in the Annual report regarding the number of Sexual Harassment cases filed and disposed off during the year.

19. ANNEXURE 1 – ESL’s INTERNAL COMPLAINTS COMMITTEE

19.1 For the period of three years from July 01, 2017 to June 30, 2020 the following members are nominated by the CEO and approved by the Board.

1. Mr. Priya Chakravarty

CHAIRPERSON/PRESIDING OFFICER - INTERNAL COMPLAINTS COMMITTEE

Sr. Vice President-HR, Corporate HR

EMAIL: priya.chakravarty@essarservices.co.in

2. Mr. Ranjit Singh

MEMBER - INTERNAL COMPLAINTS COMMITTEE

Executive Director & CEO Essar Shipping Limited

EMAIL: ranjit.singh@essarshipping.co.in

3. Mr. C S Krishnakumar

MEMBER - INTERNAL COMPLAINTS COMMITTEE

Vice President - Human Resources

EMAIL: krishnakumar.cs@essar.com

4. Ms. Trupti Jevari Panchal

NGO MEMBER - INTERNAL COMPLAINTS COMMITTEE

Project Director, RCI-VAW: The Resource Centre for Interventions on Violence against Women

EMAIL: trupti@tiss.edu

THE INTERNAL COMPLAINTS COMMITTEE FOR OTHER BUSINESSES OF ESSAR MIGHT BE DIFFERENT THAN THE ABOVE MENTIONED, HENCE REFER TO YOUR BUSINESS HR FOR THE SAME.