

# Agriculture Insurance Company of India Ltd



## “POLICY AGAINST SEXUAL HARASSMENT OF WOMEN AT WORKPLACE”

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## **POLICY AGAINST SEXUAL HARASSMENT OF WOMEN AT WORKPLACE**

### **I. INTRODUCTION**

Agriculture Insurance Company of India Ltd (AIC) is committed to provide a work environment free from harassment of any kind and in particular, a work environment that does not tolerate sexual harassment of women at workplace. We respect dignity of everyone involved in our workplace. We require all employees to make sure that they maintain mutual respect and positive regard towards each other.

This policy has been formulated keeping in view of the provisions of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and its Rules. This policy shall be called as “Policy Against Sexual Harassment of Women at Workplace”.

### **II. SCOPE**

This policy shall be applicable to all employees of AIC. It includes all categories of employees of the Company, including temporary appointees, trainees and employees on contract at its workplace.

### **III. OBJECTIVE**

The objective of this policy is to define the guidelines and the processes to be followed in order to provide protection against sexual harassment of women at workplace and redressal of complaints thereof, and also to maintain a working environment that is comfortable and free of sexual harassment.

### **IV. DEFINITIONS**

- 1) “**Act**” means The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- 2) “**Aggrieved woman**” In relation to 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.
- 3) “**Company**” means Agriculture Insurance Company of India Ltd (AIC).
- 4) “**Complainant**” means, as the case may be, the aggrieved woman herself or any other person on behalf of the aggrieved woman who is authorised to make a complaint in terms of the provisions of clause VI (1).

- 5) "**Employee**" means a person employed at a workplace for any work on regular, temporary, *ad hoc* or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other name;
- 6) "**Employer**" means any official who is responsible for the management, supervision and control of the work place or such other officer as the aforesaid head/official may by an order specify in this behalf.
- 7) "**Rules**" means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.
- 8) "**Sexual Harassment**" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:—
  - a) physical contact and advances; or
  - b) a demand or request for sexual favours; or
  - c) making sexually coloured remarks; or
  - d) showing pornography; or
  - e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:-

- a) implied or explicit promise of preferential treatment in her employment; or
  - b) implied or explicit threat of detrimental treatment in her employment; or
  - c) implied or explicit threat about her present or future employment status; or
  - d) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
  - e) humiliating treatment likely to affect her health or safety.
- 9) "**Respondent**" means a person against whom the complainant has made a complaint.
  - 10) "**Workplace**" includes:
    - a) Head office (HO) and all Regional offices (ROs)/other offices where the Company's business or activities incidental or ancillary thereto is conducted.

- b) All company-related activities performed at any other site away from the Company's premises including transportation provided by the employer for undertaking such a journey.

## V. CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE (ICC)

Whether or not any conduct constitutes an offence under the Act or a breach of the service rules, an appropriate complaint mechanism in the form of “**Internal Complaints Committee**” (ICC) is to be created for time-bound redressal of the complaint made by the complainant. Internal Complaints Committee shall be constituted by the AIC at its HO & ROs/other offices. However, where due to shortage of staff or any other reason, ICC could not be constituted, ICC at HO shall have jurisdiction over such issues pertaining to such RO/other office.

The Internal Complaints Committee shall consist of the following members to be nominated by the employer, namely:

- 1) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available at such workplace, the Presiding Officer shall be nominated from HO or any other RO:

- 2) not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge:
- 3) one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:

Provided that at least one-half of the total Members so nominated shall be women.

- 4) The Presiding Officer and every Member of the ICC shall hold office for such period, not exceeding three years, from the date of their nomination and shall be eligible for renomination.
- 5) The Member appointed from amongst non-government organisations shall be entitled to an allowance of not less than two hundred rupees per day for holding the proceedings of the ICC and also the reimbursement of travel cost incurred in travelling by train in three tier air condition or air conditioned bus and auto rickshaw or taxi, or the actual amount spent by him/her on travel, whichever is less.
- 6) Where the Presiding Officer or any Member of the ICC-
  - a) contravenes the provisions of clause XII; or

- b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him/her; or
- c) he/she has been found guilty in any disciplinary proceedings conducted by department/office to which he/she is subjected or a disciplinary proceeding is pending against him/her; or
- d) has so abused his/her position as to render his/her continuance in office prejudicial to the public interest,

Such Presiding Officer or Member, as the case may be, shall be removed from the Committee and shall not be eligible for renomination and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this clause.

## **VI. COMPLAINT**

### **1) Complaint of Sexual Harassment:**

- a) A Complainant may make, in writing, a complaint of sexual harassment at workplace to the ICC 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 last incident:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the ICC, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the ICC for the reasons to be recorded in writing, extend the time limit for a further period not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

- b) Where the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by –
  - ❖ her relative or friend; or
  - ❖ her co-worker; or
  - ❖ an officer of the National Commission for Women or State Women's Commission; or
  - ❖ any person who has knowledge of the incident, with the written consent of the aggrieved woman.
- c) Where the aggrieved woman is unable to make a complaint on account of her mental incapacity, a complaint may be filed by -
  - ❖ her relative or friend; or
  - ❖ a special educator; or

- ❖ a qualified psychiatrist; or
  - ❖ the guardian or authority under whose care she is receiving treatment or care; or
  - ❖ any person who has knowledge of the incident jointly with the her relative or friend or a special educator or qualified psychiatrist or psychologist or guardian or authority under whose care she is receiving treatment or care;
- d) Where the aggrieved woman for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident, with her written consent;
- e) Where the aggrieved woman is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of her legal heir.

## **2) Conciliation:**

- a) The Internal Complaints Committee may, upon receipt of the complaint but before initiating an inquiry under clause VII and at the request of the complainant take steps to settle the matter between complainant and the respondent through conciliation:

Provided that no monetary settlement shall be made as a basis of conciliation.

- b) Where a settlement has been arrived at under sub-clause VI (2) (a), the ICC shall record the settlement so arrived and forward the same to the employer to take action as specified in the recommendation.
- c) The ICC shall provide the copy of the settlement as recorded under sub-clause VI (2) (b) to the complainant and the respondent.
- d) Where a settlement is arrived at under sub-clause VI (2) (a), no further inquiry shall be conducted by the ICC in the matter.

## **VII. INQUIRY INTO COMPLAINT**

- 1) Subject to the provisions of clause VI(2), the ICC shall, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent:

Provided that where the complainant informs the ICC, that any term or condition of the settlement arrived at under sub-clause VI (2) (b) has not been complied with by the respondent, the ICC shall proceed to make an inquiry into the complaint.

- 2) For the purpose of making an inquiry under sub-clause (1), the ICC 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/her on oath;
  - b) requiring the discovery and production of documents; and
  - c) any other matter which may be prescribed.
- 3) The inquiry under sub-clause (1) shall be completed within a period of ninety days from the date of initiation of the inquiry.
- 4) **Manner of inquiry:-**
  - a) At the time of filing the complaint, the complainant shall submit to the Internal Complaints Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.
  - b) On receipt of the complaint, the ICC shall send one of the copies received from the complainant to the respondent within a period of seven working days.
  - c) The respondent shall file his/her reply to the complaint along with the list of documents, and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of the documents.
  - d) The Internal Complaints Committee shall make inquiry into the complaint in accordance with the principles of natural justice.
  - e) The Internal Complaints Committee shall have the right to terminate the inquiry proceedings or to give an *ex-parte* decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Presiding Officer:

Provided that such termination or ex-parte order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.

- f) The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the ICC.
  - g) In conducting the inquiry, a minimum of three Members of the ICC including the Presiding Officer, shall be present.
- 5) The parties shall, during the course of 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.

### **VIII. ACTION DURING PENDENCY OF INQUIRY**

- 1) During the pendency of an inquiry, on a written request made by the complainant, the Internal Complaints Committee, may recommend to the employer to—
  - a) transfer the complainant or the respondent to any other workplace; or
  - b) grant leave to the complainant up to a period of three months; or
  - c) grant such other relief to the complainant as may be prescribed.
- 2) The leave granted to the complainant under this clause shall be in addition to the leave she would be otherwise entitled.
- 3) On the recommendation of the ICC, under sub-clause (1), the employer shall implement the recommendations made under sub-clause (1) and send the report of such implementation to the ICC.

### **IX. INQUIRY REPORT**

- 1) On the completion of an inquiry, the Internal Complaints Committee shall provide a report of its findings to the employer, within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.
- 2) Where the ICC, arrives 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.
- 3) Where the ICC, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer—
  - a) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent;
  - b) 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 complainant or to her legal heirs, as it may determine, in accordance with the provisions of clause XI:

Provided that in case the employer is unable to make such deduction from the salary of the respondent due to respondent being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the complainant:

Provided further that in case the respondent fails to pay the sum referred to in clause (b), the ICC may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer notified under the Act.

- 4) The employer shall act upon the recommendation within sixty days of its receipt.



**X. PUNISHMENT FOR FALSE OR MALICIOUS COMPLAINT AND FALSE EVIDENCE**

- 1) Where the Internal Complaints 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 employer, to take action against the woman or the person who has made the complaint under clause VI (a), as the case may be, in accordance with the provisions of the service rules applicable to him or her:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this clause:

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.

- 2) Where the ICC, 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 employer of the witness, to take action in accordance with the provisions of the service rules applicable to the said witness.

**XI. DETERMINATION OF COMPENSATION**

For the purpose of determining the sums to be paid to the complainant under clause IX (3) (b), the ICC, shall have regard to-

- 1) the mental trauma, pain, suffering and emotional distress caused to the complainant;
- 2) the loss in the career opportunity due to the incident of sexual harassment;
- 3) medical expenses incurred by the victim for physical or psychiatric treatment;
- 4) the income and financial status of the respondent;
- 5) feasibility of such payment in lump sum or in instalments.

**XII. PROHIBITION OF PUBLICATION OR MAKING KNOWN CONTENTS OF COMPLAINT AND INQUIRY PROCEEDINGS**

In terms of section 16 of the Act, the contents of the complaint made under clause VI, the identity and addresses of the complainant, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Complaints Committee, and the action taken by the employer under the provisions of this Policy 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 complainant and witnesses.

**XIII. 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 policy, contravenes the provisions of clause XII, he/she shall be liable for penalty in accordance with the provisions of the service rules/legal provisions applicable to the said person.

**XIV. APPEAL**

- 1) Any person not satisfied with the recommendations made under clause IX(2) or under clause IX(3)(a) or clause IX(3)(b) or clause X(1) or clause X(2) or clause XIII or non-implementation of such recommendations may prefer an appeal to the appellate authority in accordance with the provisions of the service rules applicable to the said person.
- 2) The appeal under sub-clause (1) shall be preferred within a period of ninety days from the date of the receipt of the recommendations by the person.

**XV. DUTIES OF EMPLOYER**

Every employer shall—

- 1) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- 2) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting, the ICC under clause V;
- 3) 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 ICC in the manner as may be prescribed;
- 4) provide necessary facilities to the ICC, for dealing with the complaint and conducting an inquiry;
- 5) assist in securing the attendance of respondent and witnesses before the ICC;
- 6) make available such information to the ICC, as it may require having regard to the complaint made under clause VI;
- 7) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code (45 of 1860) or any other law for the time being in force;
- 8) cause to initiate action, under the Indian Penal Code (45 of 1860) or any other law for the time being in force, against the perpetrator, or if the complainant so desires,

where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;

- 9) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- 10) monitor the timely submission of reports by the ICC.

#### **XVI. SUBMISSION OF ANNUAL REPORT & INTIMATION**

- 1) The Internal Complaints 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.
- 2) On receipt of the complaint under this policy, Concerned Regional Office/other offices shall immediately intimate the Head Office and shall also keep the Head Office updated about the matter.

#### **XVII. EMPLOYER TO INCLUDE INFORMATION IN ANNUAL REPORT**

The employer shall include the following in its annual report-

- 1) Number of complaints of sexual harassment received in the year;
- 2) Number of complaints disposed off during the year;
- 3) Number of cases pending for more than ninety days;
- 4) Number of workshops or awareness programme against sexual harassment carried out;
- 5) Nature of action taken by the employer.

#### **XVIII. SAVINGS**

Nothing contained in this policy shall prejudice any right available to the employee or prevent any person from seeking any legal remedy under any other law for the time being in force. The provisions of this policy shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

#### **XIX. MISCELLANEOUS**

The instruction on the subject and provisions contained in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and its Rules should be adhered to by all concerned in letter and spirit. A healthy atmosphere should be created in the company so that employees can work freely and fearlessly. For any ambiguity or clarification, reference to be made to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and its Rules.