

Policy on Prevention of Sexual Harassment of Women at Workplace

1. Preamble

This policy has been framed specifically in compliance with the requirements of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as “the Act”) and Rules made thereunder.

Holmarc Opto-Mechatronics Limited (hereinafter referred to as “Company”) is committed to provide safe working environment at the Workplace (defined hereafter) which includes safety from the persons coming into contact at the Workplace. The Company provides protection against any sexual harassment of women at Workplace and promote gender sensitive safe working environment. The Company is committed to remove all underlying factors that contribute towards a hostile work environment against women. In case any provision of this Policy is contrary or inconsistent with the provisions of Act or the Rules or any other applicable law, the provisions of such Act, the Rules or other applicable law shall prevail.

Making a false complaint of sexual harassment or providing false information regarding a complaint will also be treated as a violation of policy. Violation of this policy will call for strict disciplinary action up to and including termination.

2. Applicability

This policy will extend to all employees of the Company including those employed on contractual basis. The policy extends to those who are not employees of the Company, such as customers, visitors, suppliers, etc., subjected to sexual harassment at any Workplace (defined hereinafter) of the Company.

3. Definitions

3.1. “Aggrieved Woman” means 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.

3.2. “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

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of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name.

3.3. “Employer” means a person responsible for management, supervision and control of the workplace.

3.4. “Incident” means an incident of sexual harassment as defined hereinafter.

3.5. “Respondent” means a person against whom the aggrieved woman has made a Sexual Harassment complaint.

3.6. “Sexual Harassment” includes any or all of the following unwelcome acts or behavior (directly or implied) 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;

The following circumstances, among other circumstances, if it occurs, or is present in relation to or connected with 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.

3.7. “Workplace” all factories and offices or other premises in which the Company’s business is conducted and any place visited by Employee arising out of or during the course of employment and includes transportation provided by the Company for undertaking such journey.

The words and expressions used but not defined herein shall have the meanings ascribed to such terms in the Act or Rules made thereunder.

4. Role and Responsibilities

4.1 Responsibilities of the Company –

- (a) provide a safe working environment at the workplace with shall include safety from the persons coming into contact at the workplace;

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- (b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting, the Internal Committee.
- (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 as prescribed by the Act and Rules made thereunder.
- (d) provide necessary facilities to the Internal Committee for dealing with the complaint and conducting an inquiry.
- (e) assist in securing the attendance of respondent and witnesses before the Internal Committee.
- (f) make available such information to the Internal Committee, as it may require having regard to the complaint made under the Act.
- (g) 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;
- (h) 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 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 a misconduct and initiate action for such misconduct;
- (j) monitor the timely submission of reports by the Internal Committee.

4.2 Responsibilities of Individual:

It is the responsibility of all to respect the rights of others and to never encourage harassment. It can be done by:

- (a) Refusing to participate in any activity which constitutes harassment.
- (b) Supporting the person to reject unwelcome behavior.
- (c) Acting as a witness if the person being harassed decides to lodge a complaint.

All are encouraged to advise others of behavior that is unwelcome. Often, some behaviors are not intentional. While this does not make it acceptable, it does give the person behaving inappropriately, the opportunity to modify or stop their offensive behavior.

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5. Internal Complaints Committee (hereinafter referred to as “the Committee”)

5.1. The Company has constituted the Internal Complaints Committees in compliance with the provisions of the Act. The details of Internal Complaints Committee are available at notice board(s) of respective office(s)/factory(s) of the Company. Any change in the constitution of the Committee will be published in the said notice boards.

5.2. For the purpose of making an inquiry under the Act and Rules made thereunder, the Committee shall have the same powers as are vested in a civil court of the Code of Civil Procedure, 1908 (5 of 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; and
- (b) requiring the discovery and production of documents;

6. Complaint

6.1. An Aggrieved Woman can make, in writing, a complaint of Sexual Harassment at Workplace to the concerned Internal Complaints Committee within a period of 3 months from the date of incident/ last incident. The concerned Committee can extend the timeline by another 3 months for reasons recorded in writing, if satisfied that these reasons prevented the lodging of the complaint within the period.

6.2. Where such a complaint cannot be made in writing, the presiding officer or any member of the concerned Internal Complaints Committee shall render all reasonable assistance to the Aggrieved Woman for making the complaint in writing.

6.3. In case the Aggrieved Woman is unable to make a complaint on account of her physical incapacity, such complaint may be filed by:

- a. her relative or friend; or
- b. her co-worker; or
- c. an officer of the National Commission for Women or State Women’s Commission; or
- d. any person who has knowledge of the incident, with the written consent of the aggrieved woman.

6.4. In case the Aggrieved Woman is unable to make a complaint on account of her mental incapacity, such complaint may be filed by:

- a. her relative of friend; or
- b. a special educator; or
- c. a qualified psychiatrist or psychologist; or

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- d. the guardian or authority under whose care she is receiving treatment or care; or
- e. any person who has knowledge of the incident jointly with 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;

6.5. 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. 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.

7. Conciliation

7.1 The Internal Complaints Committee shall, before initiating an inquiry and at the request of the Aggrieved Woman, take steps to settle the matter through conciliation, however, no monetary settlement shall be made as a basis of conciliation. The Committee shall record the settlement in writing and forward the same to the Employer to take action as specified in the recommendation. The Committee shall provide the copies of the settlement to Aggrieved Woman and Respondent. In case settlement is arrived, no further inquiry shall be conducted by the Committee.

7.2 Where the aggrieved woman informs the Committee that any term or condition of the settlement has not been complied with by the respondent, the Committee shall proceed to make an inquiry into the complaint.

8. Inquiry Proceedings

8.1 The Internal Complaints Committee shall proceed to make an inquiry into the complaint of Sexual Harassment as follows:

- i. At the time of filing the complaint, the complainant shall submit to the Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.
- ii. On receipt of the complaint, the Committee shall send one of the copies of the complaint received from the aggrieved woman to the respondent within a period of seven working days.
- iii. The respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of copy of the complaint.
- iv. The Committee shall make inquiry into the complaint in accordance with the principles of natural justice.
- v. The Committee shall have the right to terminate the inquiry proceedings or to

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

- vi. 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 Committee.
- vii. In conducting the inquiry, a minimum of three Members of the Committee including the Presiding Officer shall be present.
- viii. The inquiry shall be completed within a period of ninety days.
- ix. Where both the parties are employees, 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.

8.2 During the pendency of an inquiry on a written request made by the aggrieved woman, the Committee, may recommend to the employer 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. The said leave granted to the aggrieved woman shall be in addition to the leave she would be otherwise entitled; or
- c. restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, and assign the same to another officer;

8.3. On the recommendation of the Committee, the employer shall implement the aforesaid recommendations made by the committee and send the report of such implementation to the Committee.

8.4. On the completion of an inquiry under this Act, the 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.

9. Manner of taking action for sexual harassment.

9.1 Where the Internal Complaints Committee arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer that

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no action is required to be taken in the matter.

9.2 Where the Internal Complaints Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer—

(a) to take any action including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service or undergoing a counselling session or carrying out community service.

(b) to deduct 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 determined by the committee considering the following:

b.1. the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;

b.2. the loss in the career opportunity due to the incident of sexual harassment;

b.3. medical expenses incurred by the victim for physical or psychiatric treatment;

b.4. the income and financial status of the respondent;

b.5. feasibility of such payment in lump sum or in instalments.

In case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman. In case the respondent fails to pay the sum, the Committee, may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

9.3 The Company shall act upon the recommendation within sixty days of its receipt by him.

10. Action for false or malicious complaint or false evidence.

Where the Committee arrives at the 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 actions mentioned in clause 9. Inability to substantiate a complaint or provide adequate proof need not attract action against the complainant. The malicious intent on part of the complainant shall be established after an inquiry in accordance with the prescribed procedure, before any action is recommended.

11. Prohibition of publication or making known contents of complaint and inquiry proceedings.

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The contents of the complaint, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the 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. However, the information may be disseminated regarding the justice secured to any victim of sexual harassment under the Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses. If any person contravenes the provisions of this clause, the Company shall recover a sum of five thousand rupees as penalty from such person.

12. Appeal

Any person aggrieved from the recommendations made by the Committee or non-implementation of such recommendations, the person aggrieved may prefer an appeal in within a period of ninety days of the recommendations to Regional Joint Labour Commissioner, Ernakulam.

13. Prevention Action

The Company will take reasonable steps to ensure prevention of sexual harassment at workplace which may include circulating applicable policies and other relevant information to all employees including new joinees.

14. Committee to submit Annual report

The internal committee shall in each calendar year prepare an annual report and submit the same to the Employer and the District officer.

15. Amendment to the Policy

Any amendment in the provisions of the Act shall be incorporated in this Policy with the prior approval of the Board from time to time. The amended/modified Policy shall be disseminated to all the employees of the Company, post the approval of the Board.