

**GUYANA**

**BILL No. of 2023**

**PROTECTION FROM HARASSMENT BILL 2023**

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**A Bill**  
**Intituled**

**AN ACT** to provide for the prevention of, and the protection of persons from, harassment and other similar conduct and for connected matters.

A.D.2023    Enacted by the Parliament of Guyana:-

**PART I**

**PRELIMINARY**

Short title and  
commencement.

1. This Act may be cited as the Protection from Harassment Act 2023, and shall come into operation on the day the Minister, may, by order, appoint.

Interpretation.

2. In this Act –

“client” means a person who conducts business with an employer;

“complainant” means a person who makes a complaint pursuant to the provisions of this Act;

“complaint” means a complaint made pursuant to section 34;

“contractor” means a person who is hired by an employer to perform specific work or provide a specific service for compensation or reward;

“court” means the magistrate’s court;

“co-worker” in relation to a worker, means another person who is employed by the employer of the worker;

“document” means, in addition to a document in writing, anything in which information of any description is recorded;

“domestic worker” means a worker who performs work in a household on a professional or occupational basis;

“employer” means a person who engages, in any form, a worker;

“employment” includes any form of engagement of a worker;

“harassment” means directly or indirectly engaging in conduct that –

(a) causes harm or inspires the reasonable belief that harm may be caused to a person by unreasonably –

(i) following, watching, pursuing or accosting of the person;

(ii) loitering outside of or near the building or place where the person resides, works, carries on business, studies or happens to be;

(iii) engaging in verbal, electronic or any other communication aimed at the person, by any means, whether or not conversation ensues;

(iv) sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the person or leaving them where they will be found by, given to, or brought to the attention of, the person;  
or

(v) acting in any manner described in subparagraphs (i) to (iv) towards someone with a familial or close personal relationship to the person;

(b) amounts to sexual harassment of the person,

and references to the term “harass” shall be construed accordingly;

“harm” means any mental, psychological, physical or economic harm;

“hearing” means a hearing conducted by the Tribunal pursuant to Part V in relation to a complaint;

“institution” includes –

- (a) a school, college, university and other place of learning or training;
- Cap. 11:01 (b) a prison or lock-up within the meaning of section 2 of the Prison Act;
- Cap. 46:07 (c) a childcare facility within the meaning of section 2 of the Child Care and Protection Agency Act or any other place for the custody of children;
- Cap. 33:03 (d) a health facility within the meaning of section 2 of the Health Facilities Licensing Act or any other place for the custody of the elderly;
- Act No. 14 of 2022 (e) a medical facility and mental health facility within the meaning of section 2 of the Mental Health Protection and Promotion Act;
- (f) a place for the custody of the elderly and disabled persons;
- (g) a place for the use of any facility by members of any organization;  
and
- (h) such other place or facility as the Minister may, by order, designate as an institution for the purpose of this Act;

“Minister” means the Minister with responsibility for human services and social security;

“respondent” in relation to a complaint, means the person who is alleged to have committed the act to which the complaint relates;

“sexual advance” includes any one or more of the following acts, forms of conduct or behaviour, namely –

- (a) physical contact of a sexual nature;
- (b) a demand or request for sex or for favours of a sexual nature;
- (c) the making of sexual gestures, suggestions, remarks or innuendos;
- (d) the showing of pornography or the display of images or objects of a sexual nature;
- (e) transmitting unwelcome electronic messages or electronic audio of a sexual nature; and
- (f) any other physical, gestural, verbal, non-verbal or visual conduct of a sexual nature;

“sexual harassment” means any –

- (a) unwelcome sexual advance from a person who knows or ought reasonable to know that such advance is unwelcome;
- (b) unwelcome explicit or implicit behaviour, suggestions, messages or remarks of a sexual nature that have the effect of offending, intimidating or humiliating a person, which a reasonable person having regard to all the circumstances would have anticipated that that person would be offended, humiliated or intimidated;
- (c) implied or expressed promise of reward for complying with a sexually oriented request; or
- (d) implied or expressed threat of reprisal or actual reprisal for refusal to comply with a sexually oriented request,

and references to the term “sexually harass” shall be construed accordingly;

“sexual harassment claim” means a sexual harassment claim made pursuant to section 15 or 16;

“supervisor” in relation to worker, means a co-worker who, by virtue of the co-worker’s employment, is in a position of authority over that worker;

“Tribunal” means the Sexual Harassment Tribunal constituted under Part IV;

“worker” means a person who carries out work in any capacity for an employer including work as –

- (a) an employee, whether in the private or public sector;
- (b) a domestic worker;
- (c) a person engaged under a contract for services, or a subcontractor of that person;
- (d) an employee of a person or subcontractor referred to in paragraph (c);
- (e) a person whose service is procured or arranged by a company which is in the business of supplying workers for other businesses, and who has been assigned to work in the business or undertaking;
- (f) an apprentice, a trainee or an intern;
- (g) a student gaining work experience;
- (h) a volunteer;
- (i) a person of a class prescribed by the Minister for the purposes of this definition, after consultation with the Minister with responsibility for labour.



(2) Any reference in this Act to conduct of a sexual nature in relation to a person includes a reference to the making, to or in the presence of, a person, of a statement of a sexual nature concerning that person, whether the statement is made orally or in writing.

(3) For the purposes of sections 20 and 28, a person is a fit and proper person if –

(a) the person –

Cap. 10:11                      (i) has not been convicted of an offence involving fraud, dishonesty or moral turpitude or, of an offence listed in the Second Schedule of the Anti-Money Laundering and Countering the Financing of Terrorism Act or an offence that is similar to any such offence in another jurisdiction;

Cap. 12:21                      (ii) is not insolvent or bankrupt, within the meaning of the Insolvency Act; and

(iii) is in compliance with any tax and other statutory requirements imposed on the person;

(b) the employment record of the person or any other information does not give the Minister reasonable cause to believe that the person carried out any act involving dishonesty or impropriety that will interfere with the ability of the person to fulfil his or her functions; and

(c) the person is, in the opinion of the Minister –

(i) a person of sound probity and is able to exercise competence, diligence and sound judgment in the fulfilling of their functions;

(ii) a person who possesses the knowledge, skills and experience which are necessary for the intended functions to be carried out by that person; and

(iii) a person whose appointment will not raise an issue of conflict of interest or undue influence.

Person may seek or apply for relief under any written law.

3. Nothing in this Act shall prevent a person from seeking or applying for relief under any other written law against harassment, stalking or any other similar conduct prohibited under this Act.

## **PART II**

### **PROTECTION FROM HARASSMENT AND SIMILAR CONDUCT**

Application of this Part.

4. This Part shall only apply to conduct amounting to harassment as set out in paragraph (a) of the definition of “harassment” under section 2.

Harassment.

5. (1) A person shall not pursue a course of conduct which amounts to harassment of another person and which that person knows or ought reasonably to know amounts to harassment of the other person.

(2) A person whose course of conduct is in question is deemed to know that it amounts to harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of one million dollars and imprisonment for six months.

Putting a person  
in fear of  
violence.

6. (1) A person who is accused of conduct which would constitute an offence under section 5 and which causes the other person to fear that violence will be used against the person, and the person whose course of conduct is in question knows or ought to know that their conduct will cause the other person so to fear, commits an offence and is liable on conviction on indictment to a fine of one million dollars and imprisonment for one year.

(2) For the purpose of this section, the person whose course of conduct is in question is deemed to know that it will cause another person to fear that violence will be used against the person if a reasonable person in possession of the same information would think the course of conduct would cause another person so to fear.

(3) If on trial on indictment, a person charged with an offence under this section is found not guilty, the court may find that person guilty of an offence under section 5.

Unlawful  
stalking.

7. (1) A person shall not unlawfully stalk another person.

(2) Subject to section 8, a person unlawfully stalks another person if that person engages in a course of conduct which –

(a) involves acts or omissions associated with stalking;

(b) causes harassment, alarm or distress to that person; and

(c) the person-

(i) intends to cause harassment, alarm or distress to that person;

or

(ii) knows or ought reasonably to have known that such conduct is likely to cause harassment, alarm or distress to that person.

(3) The following acts or omissions, in particular circumstances, are ones associated with stalking –

- (a) following a person;
- (b) making any communication, or attempting to make any communication, by any means –
  - (i) to a person;
  - (ii) relating or purporting to relate to a person; or
  - (iii) purporting to originate from a person;
- (c) monitoring the use by a person of the internet, email or any other form of electronic communication;
- (d) entering or loitering in any place, whether public or private, outside or near the person's place of residence or place of business or any other place frequented by the person;
- (e) interfering with any property in the possession of a person;
- (f) keeping a person under surveillance;
- (g) acting in any manner described in paragraphs (a) to (f) towards someone with a familial or close personal relationship to the person.

(4) For the purposes of subsection (2)(c)(ii), a person ought reasonably to know that their course of conduct is likely to cause harassment, alarm or distress to a person if a reasonable person in possession of the same information would think that the course of conduct is likely to have that effect.

(5) In considering whether a course of conduct is likely to cause harassment, alarm or distress, the court may have regard to the following factors-

- (a) the number of occasions on which the acts or omissions associated with stalking were carried out;
- (b) the frequency and the duration of the acts or omissions associated with stalking that were carried out;
- (c) the manner in which the acts or omissions associated with stalking were carried out;
- (d) the circumstances in which the acts or omissions associated with stalking were carried out;
- (e) the particular combination of acts or omissions associated with stalking comprised in the course of conduct;
- (f) the likely effects of the course of conduct on the person's safety, health, reputation, economic position, or the person's freedom to do any act which the person is legally entitled to do or not to do any act which the person is not legally bound to do; and
- (g) the circumstances of the person including the person's or mental health and personality.

(6) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable on summary conviction to a fine not less than five hundred thousand dollars nor more than one million dollars and imprisonment for six months.

Defence.

8. (1) It is a defence for a person charged with an offence under section 5,6 or 7 to show that –

- (a) in the particular circumstances, the pursuit of the course of conduct was reasonable;
- (b) that the course of conduct was pursued under any written law or rule of law or to comply with any condition or requirement imposed by any person under any written law;

- (c) that the course of conduct was lawfully done under a duty or power under any written law for the purpose of preventing or detecting crime; or
- (d) that the course of conduct was done on behalf of the Government and necessary for the purposes of national security, national defence or the conduct of international relations.

(2) If any dispute arises as to whether any act falls within paragraph (d) of subsection (1), a certificate issued under the hand of the Minister responsible for national security, or for national defence or for the conduct of international relations, as the case may be,, stating that in the Minister's opinion any act done by a specified individual or specified entity on a specified occasion falls within that paragraph is conclusive evidence that the act falls within that paragraph.

(3) A document purporting to be a certificate issued pursuant to subsection (2) and to be issued under the hand of the Minister shall be received in evidence and, unless the contrary is proved, be treated as being such a certificate.

Order for  
protection or  
compensation.  
First Schedule  
Form I or Form  
2

9. (1) A court sentencing a person convicted of an offence under section 5, 6 or 7 may, also, make an order, in the prescribed form in the First Schedule, for protection or compensation.

(2) An order for protection made under this section shall direct a person to cease from engaging in conduct which –

- (a) constitutes or may constitute harassment;
- (b) will cause fear of violence; or
- (c) constitutes or may constitute unlawful stalking,

and to comply with any other directions contained in the order.

(3) An order for protection shall have effect for the period specified in the order or until such further order, as prescribed, is made by the court varying or discharging the original order.

Form 3  
First Schedule

(4) An application for the variation or discharge of a protection order may be made in the prescribed form by the person against whom the order is made or any other person included in the order.

(5) Where a person fails to comply with an order for protection made under this section or any of the directions contained therein, that person commits an offence and is liable on summary conviction to imprisonment for six months.

Award for  
compensation.

10. (1) An order for compensation under section 9 may include –

- (a) loss of earnings;
- (b) medical expenses;
- (c) moving and accommodation expenses; and
- (d) reasonable legal costs.

(2) Any compensation ordered by a court under subsection (1) shall not exceed the statutory maximum amount that the court has jurisdiction to award.

Course of  
conduct.

11. In this Part, “course of conduct” means conduct –

- (a) on one occasion, if-
  - (i) the conduct is protracted; or
  - (ii) the accused has a previous conviction under this Part in respect of the same person; or

(b) on two or more occasions in any other case.

### **PART III**

#### **PREVENTION OF SEXUAL HARASSMENT**

Prohibition of  
sexual  
harassment.

12. (1) A person shall not sexually harass another person.

(2) A person commits sexual harassment against another person where, having regard to all the matters referred to in subsection (3), that person engages in conduct which amounts to sexual harassment of another person and which that person knows or ought reasonably to know amounts to sexual harassment of the other person.

(3) In order to determine whether any act, conduct or behaviour constitutes sexual harassment –

(a) all of the circumstances surrounding the act, conduct or behaviour shall be taken into consideration;

(b) it shall be considered whether the act, conduct or behaviour constituted a course of conduct or, if not, was a significant single instance sufficiently serious to be so determined; and

(c) the determination shall be based on the findings in the particular case.

(3) Subject to subsection (4), where a person alleges that the person has been sexually harassed by another person, that person may lodge a complaint directly with the Tribunal.

(4) Except in circumstances specified under section 17, where a person alleges that the person has been sexually harassed in the course of their employment or at an institution, that person shall first exhaust all internal



mechanisms and procedures that are available before making a complaint to the Tribunal.

Duty to ensure environment free from sexual harassment.

13. (1) An employer shall make every reasonable effort to ensure that the workers employed by the employer are not sexually harassed in the course of their employment.

(2) A person who is in charge of an institution shall make every reasonable effort to ensure that the students, residents, wards, inmates, patients or members, as the case may be, of that institution, are not sexually harassed.

Duty of employer and person in charge of institution to issue policy statement.

14. (1) Every employer shall –

(a) in relation to the business or undertaking of the employer, issue a policy statement in writing concerning the prevention of sexual harassment in the business or undertaking and, the protection of the workers in the business or undertaking from sexual harassment; and

(b) take steps as are reasonably required to bring the policy statement mentioned in paragraph (a) to the attention of the workers employed by the employer.

(2) Every person in charge of an institution shall –

(a) in relation to that institution, issue a policy statement concerning the prevention of sexual harassment at the institution, and the protection of the students, residents, wards, inmates, patients or members, as the case may be, of that institution from sexual harassment; and

(b) take such steps as are reasonably required to bring the policy statement mentioned in paragraph (a) to the attention of the

students, residents, wards, inmates, patients or members, as the case may be, of that institution.

(3) The policy statement required under this section shall be in accordance with the Sexual Harassment Policy set out in the Second Schedule and shall include the following –

- (a) a definition of sexual harassment which is consistent with the provisions of this Act;
- (b) a statement to the effect that –
  - (i) workers;
  - (ii) clients;
  - (iii) students, residents, wards, inmates, patients or members, as the case may be, at or of the institution, are entitled to an environment that is free from sexual harassment;
- (c) a statement to the effect that disciplinary measures, as are appropriate, shall be taken against any person under the direction of the employer, or the person in charge of the institution, who subjects any worker, client, student, resident, ward, inmate, patient or member, as the case may be, to sexual harassment and that due process shall be exercised in this regard;
- (d) the internal mechanisms and procedures that are available to a worker, client, a student, a resident, a ward, an inmate, a patient or a member, as the case may be, for the making of any complaint relating to sexual harassment and the resolution and settlement of the complaints;

- (e) a statement explaining the disciplinary measures that may be taken in respect of sexual harassment;
- (f) a statement to the effect that the employer, or person in charge of the institution, shall not disclose any information relating to a complainant or the circumstances of a complaint to any person, except where the disclosure is necessary for the purposes of investigating the complaint or taking disciplinary action in relation to the complaint;
- (g) a statement informing the workers, clients, students, residents, wards, inmates, patients or members, as the case may be, of their right to seek redress from the Tribunal; and
- (h) subject to section 34(5), a statement to the effect that a complainant shall exhaust all internal mechanisms and procedures that are available to the complainant before making a complaint to the Tribunal.

(4) Within twelve months from the date of commencement of this Act, every employer and person in charge of an institution shall ensure that the policy statement required under this section is prepared and shall take such steps as are reasonably required to bring the policy to the attention of each worker, client, student, resident, ward, inmate, patient or member, as the case may require.

(5) An employer or a person in charge of an institution who discloses any information relating to a complainant or the circumstances of a complaint, in contravention of subsection 3(f) shall be liable for such disclosure and a complainant who is aggrieved by such disclosure may make a complaint in respect thereof to the Tribunal.

(6) The Minister may, by order, amend the Second Schedule.

Procedure for lodging sexual harassment claim and duty of employer.

15. (1) Where a worker alleges that the worker has been sexually harassed by another worker or a client, that worker may lodge a sexual harassment claim, in writing, with the employer.

(2) Where a sexual harassment claim is lodged with an employer under subsection (1), the employer shall –

- (a) in the case where the sexual harassment claim is made against a worker, notify the worker in writing or electronically, within two days of receipt of the sexual harassment claim;
- (b) in the case where the sexual harassment claim is made against the client, take such action as the employer considers appropriate in the circumstances, to bring the matter to the attention of the client; and
- (c) commence an investigation into the particulars of the sexual harassment claim, within fourteen days of the sexual harassment claim being lodged and complete the investigation without delay.

(3) An employer who fails to take the required action under subsection (2) shall be liable for the failure to act, and a worker who is aggrieved by the failure of the employer so to act, may make a complaint in respect thereof to the Tribunal.

Procedure for lodging sexual harassment claim and duty of person in charge of an institution.

16. (1) Where a student, resident, inmate, ward, patient or member, as the case may be, alleges that he or she has been sexually harassed by –

- (a) a person who is a member of staff or in a position of authority at an institution; or

(b) by one of his or her peers at an institution, such student, resident, inmate, ward, patient or member, as the case may be, may lodge a sexual harassment claim, in writing, with the person in charge of the institution.

(2) Where a sexual harassment claim is lodged with a person in charge of an institution under subsection (1), the person in charge of the institution shall—

(a) as the case may require, within two days of receipt of the sexual harassment claim, notify the person who is a member of staff or in a position of authority or the student, resident, inmate, ward, patient or member, who is the subject of the sexual harassment claim, either in writing or electronically of the sexual harassment claim; and

(b) commence an investigation into the particulars of the sexual harassment claim, within fourteen days of the sexual harassment claim being lodged and complete the investigation without delay.

(3) A person in charge of an institution who fails to take the required action under subsection (2) shall be liable for failure to act and a student, resident, ward, inmate, patient or member, as the case may be, who is aggrieved by the failure of the person in charge of the institution to take action, may make a complaint in respect thereof to the Tribunal.

Making of  
complaint  
against  
employer or  
person in charge  
of an institution.

17. Notwithstanding the provisions of section 34(4), where an allegation of sexual harassment is made against an employer or a person who is in charge of an institution, the worker, client or student, resident, ward, inmate, patient or member, as the case may be, may make a complaint directly to the Tribunal.

Maintaining of  
register.

18. (1) An employer and person in charge of an institution shall maintain or cause to be maintained, a register containing the following information in respect of every sexual harassment claim lodged pursuant to section 15 or 16 –

- (a) the name of the parties to the sexual harassment claim;
- (b) the particulars of the sexual harassment claim;
- (c) the date of which the sexual harassment claim was lodged;
- (d) any action taken by the employer or person in charge of an institution in relation to the sexual harassment claim;
- (e) such other particulars relating to the sexual harassment claim as may be prescribed.

(2) An employer and person in charge of an institution shall ensure that the information contained in the register is kept in a secure manner and that the confidentiality of the information is preserved, and shall –

- (a) take all necessary and appropriate measures to protect the information contained in the register from unauthorised access, unauthorised use and unauthorised disclosure; and
- (b) ensure that any person who has access to the register adheres to the measures referred to in paragraph (a), at all times.

(3) No person shall disclose information which is recorded in the register, in relation to a sexual harassment claim, unless the disclosure is made with lawful authority.

(4) Pursuant to subsection (3), a disclosure is made with lawful authority only if, and to the extent that –

- (a) the disclosure is made to a party to the sexual harassment claim upon their request;
- (b) the disclosure is made to the Tribunal, where a complaint is made to the Tribunal pursuant to section 34;
- (c) the disclosure is made for the purposes of, and is necessary for, the discharge of any functions under this Act or any other relevant enactment;
- (d) the disclosure is made for the purposes of any proceedings, whether criminal or civil and whether arising under or by virtue of this Act or otherwise.

(5) A person who knowingly or recklessly discloses information kept in a register in contravention of subsection (3) commits an offence and shall, on summary conviction be liable to a fine of five hundred thousand dollars or in default of payment thereof to a term of imprisonment not exceeding one month.

(6) The information in the register shall be kept for a period of eight years.

Designation of  
authorised  
officer.

19. (1) The Minister may designate persons as authorised officers for the purposes of ensuring the proper observance and compliance with the provisions of sections 13 and 14.

(2) A person designated as an authorised officer shall undergo the requisite training to assist that person in the carrying out of their functions under this Act.

(3) An authorised officer shall be furnished with a certificate of designation.

(4) An authorised officer in performing any functions or exercising any powers under this section, shall produce the certificate of designation.

(5) For the purposes of carrying out their functions under subsection (1), an authorised officer may –

- (a) with a warrant, enter any place of employment or institution, in order to ascertain whether the provisions of sections 13 and 14 are being complied with;
- (b) inspect any place of employment or institution to ensure compliance with the provisions of sections 13 and 14; or
- (c) inspect and take copies of documents and other information or require any person at a place of employment or an institution, to provide such information as may be reasonably required, for the enforcement of the provisions of this Act.

(6) Subsection (5)(c) shall not apply to any documents or other information that is protected by legal professional privilege.

(7) A person who –

- (a) wilfully obstructs or assaults an authorised officer in the exercise of any function or power under this Act; or
- (b) fails to comply with a lawful request made by an authorised officer,



commits an offence and shall be liable on summary conviction to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months

(8) An authorised officer, on finding that an employer or person in charge of an institution is not in compliance with any of the provisions of sections 13 or 14 may issue a direction setting out the terms of compliance, and the time, not being more than thirty days, within which the employer or person in charge of the institution shall comply with the direction.

(9) An employer or person in charge of an institution who fails to comply with a direction issued under subsection (8), commits an offence and shall on summary conviction be liable to a fine not exceeding one million dollars.

## **PART IV**

### **SEXUAL HARASSMENT TRIBUNAL**

Establishment  
and constitution  
of Tribunal.

20. (1) There is hereby established, the Sexual Harassment Tribunal which shall, subject to subsection (3), consist of seven members appointed by the Minister as follows –

- (a) two members who shall be attorneys-at-law, with at least ten years standing at the bar;
- (b) two members who shall be trained and certified mediators who have each practised for at least two years;
- (c) three members who shall be selected from among persons who appear to the Minister, after consultation with the Minister responsible for the public service, Minister responsible for labour and Minister responsible for health,

to be qualified as having had the experience of, and shown capacity in, matters relating to worker representation, gender affairs, mental health, employer representation and labour relations.

(2) A person shall not be appointed as a member of the Tribunal unless the person satisfies the fit and proper eligibility requirements specified under section 2(3).

(3) Pursuant to subsection (1), at least one half of the total members appointed to the Tribunal shall be females.

Third Schedule. (4) The members of the Tribunal shall, on their appointment, take the oath of office set out in the Third Schedule.

Appointment of  
Chairperson and  
Deputy  
Chairperson of  
the Tribunal.

21. (1) The Minister shall appoint the Chairperson and Deputy Chairperson from the members of the Tribunal appointed under section 20(1)(a).  
  
(2) In the absence or inability of the Chairperson to act in any sitting of the Tribunal, the Deputy Chairperson shall act as the Chairperson at that sitting.

Jurisdiction of  
Tribunal to hear  
complaints.

22. Subject to the provisions of this Part, the Tribunal shall have jurisdiction to –

(a) hear and determine –

- (i) a complaint made pursuant to section 12(3);
- (ii) a complaint made by a worker that the worker's employer has failed to act in accordance with section 15(2);
- (iii) a complaint instituted by a student, a resident, a ward, an inmate, a patient or a member, as the

case may be, of an institution, that the person in charge of the institution has failed to act in accordance with section 16(2);

(iv) a complaint made by a person in relation to a matter arising under section 14(5), 17, or 34 (1)(d); and

(b) make any of the awards specified under section 43.

Hearing panel  
of Tribunal.

23. (1) A complaint made to the Tribunal pursuant to section 22 shall be heard and determined by a panel consisting of the Chairperson and at least four other members of the Tribunal.

(2) In appointing a panel pursuant to subsection (1), the Chairperson of the Tribunal shall, at all times, ensure that there is a gender balance amongst the membership of the panel.

Disclosure of  
interest in  
relation to  
matter before  
Tribunal.

24. (1) A member of the Tribunal who in any way, whether directly or indirectly, has an interest in any matter that is brought before the Tribunal shall —

(a) by notice, declare the nature of the interest on the first opportunity at which it is practicable for the member to do so; and

(b) not take part in any deliberations or decisions of the Tribunal with respect to that matter.

(2) A notice given by a member at a hearing of the Tribunal to the effect that the member is interested in any matter before the Tribunal shall, for the

purposes of subsection (1), be a sufficient disclosure of the member's interest in relation to the matter.

(3) A member need not attend in person at a hearing of the Tribunal in order to make a disclosure which the member is required to make under this section if the member takes reasonable steps to ensure that the disclosure is made by notice which is taken into consideration and read at the hearing.

(4) Where the Minister is satisfied that a member of the Tribunal is unable to carry out the duties as a member properly and effectively because of any conflict of interest or potential conflict of interest in a matter before the Tribunal, the Minister shall replace that member or direct that member to abstain from taking part in any proceedings relating to any matter affected by the member's conflict of interest or potential conflict of interest.

Tenure of  
office.

25. The members of the Tribunal shall, subject to the provisions of this Part, hold office for a period not exceeding three years, and shall be eligible for re-appointment.

Acting  
appointments.

26. The Minister may appoint any person to act in the place of the Chairperson of the Tribunal or any other member of the Tribunal in the case of the absence, inability or refusal of the Chairperson or other member to act, so however that, such appointment shall be made in the same manner and from among the category of persons as would be required in the case of the original appointment.

Resignation.

27. (1) Any member of the Tribunal, other than the Chairperson, may at any time resign from the office as member by instrument in writing addressed to the Minister and transmitted through the chairperson, and from the date of the receipt by the Minister of the instrument, that member shall cease to be a member of the Tribunal.

(2) A member who wishes to resign under subsection (1) shall provide one month's prior notice of resignation by instrument in writing addressed to the Minister and transmitted through the Chairperson.

(3) The Chairperson may at any time resign from the office as chairperson by instrument in writing addressed to the Minister and the resignation shall take effect as from the date of receipt by the Minister of that instrument.

(4) The Chairperson shall provide at least three months' notice by instrument in writing addressed to the Minister prior to resignation under subsection (3).

Disqualification.        28. A person shall not become or continue to be a member of the Tribunal, if the person –

(a) is unable to perform the functions as a member of the Tribunal by reason of ill health; or

(b) does not or no longer satisfies the fit and proper eligibility requirements under section 2(3).

Revocation of appointment.        29. The Minister may revoke the appointment of any member of the Tribunal for any of the circumstances arising under section 26 or section 28.

Filling of vacancies.        30. If any vacancy occurs in the membership of the Tribunal, such vacancy shall be filled by the appointment of a person who shall, subject to the provisions of this Part, hold office for the remainder of the period for which the previous member was appointed, so however, that the appointment shall be made in the same manner and from the same category and gender of persons as the appointment of the previous member.

Publication of membership.

31. The names of all members of the Tribunal as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Remuneration of members.

32. There shall be paid to each member of the Tribunal such salary or remuneration and such allowances as the Minister may determine.

Staff of Tribunal.

33. (1) The Tribunal shall be provided with a secretary and with additional staff as may be necessary to assist the Tribunal in the performance of its functions.

(2) The secretary of the Tribunal shall be responsible for –

- (a) keeping a record of the proceedings of the Tribunal;
- (b) keeping in safe custody the documents of the Tribunal;
- (c) recording statements of witnesses called before the Tribunal; and
- (d) performing such other duties as the Tribunal may require.

## **PART V**

### **PROCEDURE FOR MAKING COMPLAINTS, INVESTIGATIONS AND HEARING BY TRIBUNAL.**

Making of complaint.

34. (1) A person who alleges that –

- (a) a contravention against section 12(1) has been committed against the person;

- (b) an employer or person who is in charge of an institution has failed to comply with section 13 (1) or (2);
- (c) a contravention of section 15(2), 16(2) or 17 has been committed against the person;
- (d) an employer or a person in charge of an institution has disclosed information in contravention of section 4(5);  
or
- (e) the person is aggrieved by or not satisfied with the findings of the employer or a person who is in charge of an institution, as the case may be, pursuant to a sexual harassment claim made under section 15 or 16,

may make a complaint, in writing, in the prescribed manner to the Tribunal, setting out the details of the alleged contravention.

(2) A complaint shall be made –

- (a) in the case of subsection (1)(c), within a period of six years from the date of the alleged contravention, or in the case of a course of conduct of series of alleged acts, within a period of six years from the date of the last alleged act; and
- (b) in the case of subsection (1)(a), (b), (d) or (e), within the period of twelve months from the date of the alleged contravention.

(3) Notwithstanding subsection (2)(a), the Tribunal may, in circumstances which it considers to be exceptional, grant leave for a complaint to be made after the period specified thereunder.

(4) Subject to subsection (5), a person shall, before making a complaint under subsection (1)(c), exhaust the use of any internal mechanisms and procedures that are available to the person, as provided for in the policy statement issued by an employer or a person in charge of an institution, as the case may be, in accordance with this section.

(5) The Tribunal may grant leave to a person to make a complaint to the Tribunal in the circumstances provided in subsection (6), notwithstanding that subsection (4) has not been complied with.

(6) The circumstances referred to in subsection (5) are that the Tribunal is satisfied that the person has –

- (a) shown cause as to why the person reasonably believes that the person's rights may be prejudiced if the person were to comply with subsection (4); or
- (b) provided evidence to show that no internal mechanisms or procedures, or no adequate internal mechanisms and procedures have been made available to the person as is required under section 14(3)(d).

Particulars of complaint not to be communicated.

35. Where a complaint referred to in section 34 has been lodged before the Tribunal, any person having any official duty or being employed in the administration of this Act shall not, unless the Tribunal so permits, divulge or communicate any particulars of the complaint to any other person, until –

- (a) the Tribunal has commenced a hearing in relation to the complaint; or
- (b) the Tribunal decides not to hold the hearing or discontinues the hearing in accordance with this Act.



Investigation  
and report of  
findings.

36. (1) Subject to subsection (2), upon receipt of a complaint, the Tribunal may cause an investigation to be conducted into the particulars of the complaint by a person authorised by the Tribunal as the Tribunal deems necessary and appropriate, having regard to the nature and circumstances of the complaint.

(2) For the purposes of conducting an investigation under subsection (1), a person authorised by the Tribunal to conduct the investigation may, by written notice –

(a) require an employer to disclose information regarding a complaint;

(b) require any person to furnish any information disclosed in a complaint;

(c) specify the time within which the employer or person shall furnish any information disclosed in the notice; and

(d) require any person to –

(i) attend a hearing at a time and place as may be specified in the notice;

(ii) give any evidence as the person authorised by the Tribunal to conduct the investigation considers necessary; and

(iii) produce any document or exhibit in the possession or control of the person relating to any matter disclosed in a complaint.

(3) A person served with a notice under subsection (2) shall not be compelled to give evidence or produce any document which the person would

not be compelled to give in evidence, or produce in any proceedings before a court.

(4) A person who, without reasonable cause, fails to comply with a notice referred to in subsection (2) commits an offence and shall, on summary conviction be liable to a fine not exceeding one million dollars.

(5) Upon completion of an investigation, the person authorised by the Tribunal to conduct the investigation shall submit a report of the findings to the Tribunal.

Lack of grounds  
for making of  
complaint.

37. Pursuant to a report submitted under section 36 (5), where the Tribunal finds that there is no evidence of sexual harassment or the complaint is frivolous or vexatious, the Tribunal shall, in writing, inform –

(a) the complainant; and

(b) any person against whom the complaint was made of the facts and reasons for its finding, and the Tribunal shall take no further action in relation to the complaint.

Procedures to  
apply in relation  
to a hearing  
conducted by  
the Tribunal.

38. (1) The following procedures shall apply in relation to a hearing conducted by the Tribunal –

(a) notice of the time and place at which the hearing is to be held shall be given to the parties in relation to the complaint, and the notice shall be of not less than ten days;

(b) a record of the evidence adduced before the Tribunal shall be made, dated and signed by the members;

(c) documents produced as exhibits before the Tribunal shall be marked, dated and initialled by the Chairperson and shall be attached to the file of the hearing; and

(d) in the absence of any party duly notified to attend, the matter, which is the subject of the complaint may be decided by the Tribunal *ex parte*.

(2) The Tribunal shall not conduct a hearing or shall discontinue a hearing, if the Tribunal receives notice that the complainant does not wish the hearing to be held or to be continued.

(3) The Tribunal –

(a) may endeavour, by any means that it considers reasonable, to resolve a complaint which is the subject of a hearing under this section; or

(b) shall take steps that it considers reasonable, to effect an amicable settlement of the complaint, and for this purpose may adjourn a hearing at any stage to enable the parties to negotiate with a view to settlement by amicable arrangements.

Evidence before  
Tribunal.

39. The Tribunal may take evidence on oath or affirmation for the purpose of the hearing.

Attendance at  
hearing.

40. (1) The Tribunal may, for the purpose of a hearing, by notice in writing, direct any person specified in subsection (2), to attend at a time and place specified in the notice for the purposes of the hearing.

(2) Directions under subsection (1) may be given to –

(a) the complainant;

(b) the respondent; and

(c) any other person who, in the opinion of the Tribunal, is likely to be able to provide information relevant to the hearing or whose presence is, in the opinion of the Tribunal, likely to be conducive to the settlement of the matter to which the complaint relates.

(3) The Tribunal may in a notice under subsection (1), require the person to produce any document specified in the notice.

(4) The Tribunal shall give each party to a hearing reasonable opportunity to call witnesses or give evidence, examine and cross-examine witnesses and make submissions to the Tribunal.

Right to  
representation.

41. A party to a hearing may be represented by an attorney-at-law or any other person, or may elect to be self-represented.

Tribunal may  
prohibit  
publication of  
evidence.

42. (1) In the interest of the administration of justice, public safety, public order or public morality, the Tribunal conducting a hearing in the exercise of its jurisdiction under this Act may direct that –

(a) the name, identity, and address of any person shall be protected in the manner specified by the Tribunal;

(b) in relation to a witness called or appearing before the Tribunal, the name, identity, and address of the witness and such other particulars concerning the witness, as in the opinion of the Tribunal, shall be kept confidential and not be published; or

(c) no particulars of a complaint shall be published without the prior written approval of the Tribunal.

(2) A person shall not publish any information in contravention of a direction under subsection (1).

Award of  
Tribunal.

43. (1) After conducting a hearing, the Tribunal may –

(a) dismiss the complaint;

(b) find in favour of the complainant and make a determination, which may include any one or more of the following awards –

(i) a declaration that the respondent has engaged in conduct amounting to a contravention under this Act, in the manner specified in the declaration, and shall not repeat or continue the conduct;

(ii) a direction that the respondent should perform any reasonable act or course of conduct to redress any loss or damage suffered by the complainant;

(iii) a direction that the respondent should reinstate the complainant;

(iv) a direction that the respondent should pay to the complainant damages by way of compensation for any loss or damage suffered by reason of the conduct of the respondent;

(v) a direction that the employer concerned should take such action, within such time, as the Tribunal may direct to ensure that the conduct referred to in subparagraph (i) ceases, and to report to the Tribunal on the action taken;

(vi) a declaration that it would be inappropriate for any further action to be taken on the matter; or

(c) make such other award as may be appropriate in relation to the complaint.

(2) A decision or an award of the Tribunal shall be issued in writing and shall state the reasons for that decision or award.

(3) The Tribunal may, in making an award under subsection (1)(b), take into consideration, injury to the complainant's feelings and any humiliation, mental or emotional distress suffered by the complainant.

(4) Where the Tribunal makes an award by way of a direction for the payment of compensation to the complainant, the sum so payable may be recovered by the complainant summarily in the court, without limit of amount, as a civil debt.

Effect of award.        44. A decision or an award of the Tribunal shall be binding on the complainant and the respondent appearing before the Tribunal and shall take effect from such date as may be specified in the order, having regard to the circumstances of the case.

Appeal.                45. Any person who is dissatisfied with any decision or award of the Tribunal may appeal to the High Court.

## PART VI

### OFFENCES AND PENALTIES

Offences in  
relation to  
attendance and  
hearing.

46. (1) Any person directed, pursuant to the provisions of this Act, to attend a hearing of the Tribunal and who fails without reasonable excuse to do so, commits an offence and shall, on summary conviction be liable to a fine not exceeding one million dollars or, in default of payment thereof, to a term of imprisonment not exceeding three months.

(2) Any person who, without reasonable excuse, fails or refuses to furnish information or produce documents under the provisions of this Act, commits an offence and shall, on summary conviction be liable to a fine not exceeding one million dollars or, in default of payment thereof, to a term of imprisonment not exceeding three months.

(3) Any person appearing before the Tribunal as a witness at a hearing, who –

(a) refuses or fails to be sworn or to make an affirmation;  
or

(b) refuses or fails to answer any question required to be  
answered by the Tribunal,

commits an offence and shall, on summary conviction be liable to a fine not exceeding one million dollars or, in default of payment thereof, to a term of imprisonment not exceeding three months.

(4) A person who –

(a) interrupts the proceedings at a hearing of the Tribunal;

- (b) uses insulting language towards the Tribunal when the Tribunal is exercising any powers or performing any functions under this Act,

commits an offence and shall on summary conviction be liable to a fine not exceeding five hundred thousand dollars or, in default of payment thereof, to a term of imprisonment not exceeding one month.

(5) A person who –

- (a) publishes anything in contravention of section 35;
- (b) permits, divulges or communicates any particulars of a complaint in contravention of section 28;
- (c) furnishes to the Tribunal any information or makes a statement at a hearing, knowing that the information or statement is false or misleading in a material particular,

commits an offence and shall, on summary conviction be liable to a fine not exceeding one million dollars, or, in default of payment thereof, to a term of imprisonment not exceeding twelve months.

Victimisation.

47. (1) A person shall not victimise another person by subjecting or threatening to subject another person to any detriment –

(a) on the ground that the second-mentioned person –

- (i) has made, or proposes to make, a complaint under this Act;
- (ii) has furnished, or proposes to furnish, any information, or has produced, or proposes to produce, any document to a person exercising or



performing any power or function under this Act;

(iii) has attended, or proposes to attend, a hearing under this Act, or to appear as a witness; or

(iv) has made, in good faith, an allegation that a person has engaged in conduct prohibited under this Act; or

(b) on the ground that the first-mentioned person believes that the second- mentioned person has done, or proposes to do, an act or thing referred to in paragraph (a)(i) to (iv).

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or both.

Offence of making false complaints.

48. A person who knowingly makes a false complaint under section 34 commits an offence and shall, on summary conviction be liable to a fine not exceeding one million dollars or, in default of payment thereof, to imprisonment for a term not exceeding three months.

## **PART VII**

### **MISCELLANEOUS**

Regulations.

49. The Minister may make regulations to give effect to the provisions of this Act.

Tribunal may regulate its procedures and proceedings.

50. (1) Subject to the provisions of this Act, the Tribunal may regulate its procedures and proceedings as it thinks fit, and may make rules and prescribe forms to be used in connection with complaints brought under this Act.

(2) The rules of the Tribunal as first constituted and all amendments made thereafter, shall be published in the *Gazette*.

Act binds the State.

51. This Act binds the State.

s. 9

FORM 1 PROTECTION ORDER	
REPUBLIC OF GUYANA	
In the County of .....	
The Court having heard the matter in respect of the conduct of ..... (Name of Defendant)	
towards..... (Name of person to be protected)	
NOW THIS COURT ORDERS, that for the period from the ..... day of ....., 20..... to the ..... day of ....., 20..... YOU ..... (Name of Defendant)	
THE WITHIN NAMED DEFENDANT SHALL NOT ENGAGE IN THE FOLLOWING CONDUCT:	
AND YOU SHALL COMPLY WITH THE FOLLOWING PROHIBITIONS AND CONDITIONS:	

If you the said .....

(Name of defendant)

fail to comply with any of the terms of this Order you shall be liable on summary conviction to imprisonment for six months pursuant to section 45(5) of the above-mentioned Act.

.....

Magistrate

Dated this.....day of .....

<p style="text-align: center;"><b>FORM 2</b></p> <p style="text-align: center;"><b>COMPENSATION ORDER</b></p>	<p>s.9(3)</p>
<p>REPUBLIC OF GUYANA</p> <p>In the County of .....</p> <p>The Court having heard the matter in respect of the conduct of</p> <p>.....</p> <p style="text-align: center;">(Name of Defendant)</p> <p>towards .....</p> <p style="text-align: center;">(Name of person to be compensated)</p> <p>NOW THIS COURT ORDERS, that you .....shall</p> <p style="text-align: center;">(Name of Defendant)</p> <p>pay monetary compensation to .....</p> <p style="text-align: center;">(Name of person to be compensated)</p> <p>within .....months of the date of this Order in the sum of \$ .....00, comprised as follows:</p> <p>(SPECIFY THE COMPENSATION HEADINGS, AMOUNTS UNDER EACH HEADING AND TOTAL AMOUNT OF COMPENSATION ORDERED)</p> <p style="text-align: right;">.....</p> <p style="text-align: right;">Magistrate</p> <p>Dated this ..... day of .....</p>	

<p style="text-align: center;"><b>FORM 3</b></p> <p style="text-align: center;"><b>APPLICATION FOR VARIATION OR DISCHARGE OF PROTECTION ORDER</b></p>	<p>s. 9(4)</p>
<p>REPUBLIC OF GUYANA</p> <p>In the County of .....</p> <p>Between . .... Person to be protected v</p> <p>..... Defendant</p> <p>I, ..... hereby apply for a</p> <p>(Name of Applicant)</p> <p>variation/discharge of the Protection Order made against</p> <p>..... on the</p> <p>(Name of person against whom the Order was made)</p> <p>..... day of ....., 20..... by the ..... Court (a copy of</p> <p>which is attached to this application) in respect of certain conduct towards</p> <p>.....</p> <p>(Name of person who is protected by the Order)</p> <p>I ask for a discharge of the Order/variation of the Order in the following terms:</p> <p>(SPECIFY DETAILS OF VARIATION)</p> <p>.....</p> <p style="text-align: right;">Applicant</p> <p>Dated this ..... day of .....</p>	

<p style="text-align: center;"><b>FORM 4</b></p> <p style="text-align: center;"><b>ORDER VARYING OR DISCHARGING PROTECTION ORDER</b></p>	<p>s. 9 (3)</p>
<p>REPUBLIC OF GUYANA</p> <p>In the County of .....</p> <p>The Court, having heard an application made under section 45(4) of the above-mentioned Act by .....</p> <p style="text-align: center;">(Name of Applicant)</p> <p>in respect of the conduct of .....</p> <p style="text-align: center;">(Name of Defendant)</p> <p>towards..... and</p> <p style="text-align: center;">(Name of person protected by the Order)</p> <p>the Court having on the ..... day of ....., 20..... made an Order, a copy of which is attached, prohibiting the Defendant from engaging in the conduct specified therein NOW the Court on the application of .....</p> <p style="text-align: right;">(Name of Applicant)</p> <p>does this day Order that the Protection Order be discharged with effect from .....</p> <p>(Specify effective date of discharge)</p> <p><b>VARIED AS FOLLOWS (SPECIFY DETAILS OF VARIATION)</b></p> <p style="text-align: right;">.....</p> <p style="text-align: right;">Magistrate</p> <p>Dated this ..... day of .....</p>	

**SECOND SCHEDULE**  
**Sexual Harassment Policy**

s.  
14(3)

Purpose.

1. (1) It is the policy of [ ] to provide an environment free from harassment of any kind.

(2) A worker or person on the premises of [ ] is entitled to work, provide services or be in an environment free from sexual harassment.

(3) Sexual harassment violates an individual's fundamental rights and personal dignity, it is unlawful, and will not be tolerated by [ ].

(4) When [ ] determines that an allegation of sexual harassment is credible, it will take prompt and appropriate corrective action.

Definition.

2. (1) Sexual harassment is the making of any unwelcome sexual advance towards a person, by another person, which –

(a) is regarded as offensive or humiliating by the person towards whom the sexual advance is made; or

(b) has the effect of –

(i) interfering with the work performance of the person to whom the sexual advance is made; or

(ii) creating an intimidating, offensive or a hostile work environment.

(3) Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual



harassment even if one of the incidents considered on its own may not be sexually harassing.

(4) Certain behaviours, such as conditioning promotions, awards, grades, training or other benefits upon acceptance of unwelcome actions of a sexual nature, are always wrong and prohibited by [ ].

(5) A [worker/a ward/ an inmate/] is prohibited from harassing another [worker/ ward/ inmate] or person whether or not the incidents of harassment occur on [ ] property and whether or not the incidents occur during [working] hours.

(6) The victim can be of the same sex as the accused. The accused can be a [Supervisor/Director/Manager], another [worker/ ward/ inmate] or person who has a business relationship with [ ] or may be on the premises of [ ].

(7) Although sexual harassment typically involves a person in a greater position of authority than the victim, a person in a position of lesser or equal authority may also be found responsible for engaging in prohibited sexual harassment.

(8) Consensual sexual or romantic relationships between [workers] are deemed unwise and are strongly discouraged by [ ] in particular if one [worker] has supervisory authority over the other [worker].

Workers'/Students/  
Wards/ Inmates  
Rights and  
Responsibilities under  
this Policy.

**3. (1)** All incidents of sexual harassment or inappropriate sexual conduct should be reported by a [ ] regardless of their seriousness.

(2) If a [worker/ student/ ward/ an inmate] believes that he or she has been subjected to sexual harassment or any unwanted or

unwelcome sexual comment, conduct, innuendo, gesture, contract, advance or attention by anyone he or she should-

- (a) make his or her unease and/or disapproval directly and immediately known to the alleged harasser orally or in writing that such conduct is unwelcome and offensive and must stop; and

- (b) report the incident immediately to the [Employer/Supervisor/Director/Manager/Dean]. If the [Employer/Supervisor/Director/Manager/Dean] is responsible for the sexual harassment, report the conduct to the Sexual Harassment Tribunal.

(3) If the person does not wish to communicate directly with the offending person, or if such communication has been ineffective, the person is encouraged to report the unwelcome conduct as soon as possible to a responsible [Department] official. It is usually most effective, although it is not required, that the official be within the person's supervisory chain. Responsible Department officials include first-or second-line supervisors, the offending person's supervisor, the management officers, the [Director/Manager/Executive Director] or [Assistant Director Assistant Manager/ Assistant Supervisor or President/Board].

(4) A person should feel free to raise concerns and make a report without fear of reprimand.

(5) Alleging harassment without following the reporting procedures may be considered evidence of a malicious intent on the part of the complainant.

(6) The privacy of the complainant and of the person accused of sexual harassment respondent must be maintained and all information must be kept strictly confidential.

(7) A person shall not retaliate against or victimise worker or any person for filing a complaint of sexual harassment or for cooperating in an investigation of a sexual harassment complaint.

(8) The worker shall not make a false complaint of sexual harassment.

Employer's  
Responsibilities under  
this Policy.

4. (1) If [ ] receives an allegation of sexual harassment, it will take the necessary steps to ensure that the matter is promptly investigated and addressed.

(2) If the allegation is determined to be credible, [ ] will take immediate and effective measures to end the unwelcome behaviour.

(3) [ ] is committed to take action if it learns of possible sexual harassment, even if the individual does not wish to file a formal complaint.

(4) All complaints will be promptly and carefully investigated by the administration, and all workers are assured that the workers will be free of any and all reprisal or retaliation from filing such complaints.

(5) An administrative investigation will include interviews with all relevant persons, including the complainant, the respondent and other potential witnesses. In determining whether an alleged conduct constitutes sexual harassment, the record as a whole and the totality of the circumstances, such as the nature of sexual advances and the context in which the alleged incidents occurred will be examined. A determination of appropriate action will be made from the facts, on a case-by-case basis.

(6) The administration will review the finding with the complainant and the respondent at the conclusion of its investigation. Findings of fact will be based on a balance of probabilities and not on the basis of proof beyond reasonable doubt. The respondent will not be presumed innocent until proven guilty. If the investigation reveals that the complaint appears to be valid, immediate and appropriate corrective action, up to and including discharge, will be taken to stop the harassment and prevent its reoccurrence. If the validity of the complaint cannot be determined, immediate and appropriate action will be taken to assure all parties are reacquainted with the sexual harassment policy and to avoid sexual harassment in the future. Any finding can be appealed to the Tribunal using the existing [grievance/disciplinary] policy.

(7) (a) If a complaint involves a member of the administration, then a written request should be made to the [Chairman of the Board] to establish a [Committee] to investigate the complaint.

(b) [ ] will develop and keep under review its internal policies and procedures to ensure that –

- (i) there are multiple, easily accessible personnel and facilities for making complaints and for providing counselling to complainants.
- (ii) adequate guidance is provided with respect to the timelines for making, responding to, investigating and determining complaints with a view to promoting the expeditious handling of complaints;

(iii) as far as practicable, adequate interim measures are taken to keep complainants and respondents apart and to minimise their interaction, pending the settlement or determination of complaints; and

(iv) investigations are fair and are conducted by persons who are adequately trained to investigate complaints of sexual harassment.

(c) [ ] will ensure that personnel, including members of any committee, designated to receive complaints are adequately trained to respond to complaints of sexual harassment.

(8) Prevention is the best tool for the elimination of sexual harassment. [ ] and the administration express strong disapproval of any acts that can be construed as an act of sexual harassment of any [person/worker] on the premises of [ ]. (This includes inappropriate jokes, displays of posters, etc.)

(9) [ ] will periodically promote education, training and awareness among [workers/ students / wards / inmates] on matters relating to sexual harassment.

Resolution.

**5. (1)** A worker often can stop or prevent sexual harassment by immediately and directly expressing his or her disapproval of an individual's sexually oriented attention or conduct. In many cases, an informal warning by the [Director/Manager] to an alleged harasser, combined with appropriate follow-up supervision and monitoring of the worker's behaviour might be sufficient to prevent or stop sexual harassment. If the worker is uncomfortable addressing the [Director], the [Board] may be approached directly.

(2) If this approach does not stop the sexual harassment, a thorough and impartial investigation of all complaints will be conducted in a timely and appropriate manner. The investigation will be conducted by the [Director, Manager/ Executive Director/ Assistant Director, or the worker's immediate supervisor].

(3) A [worker] of [ ] who has been found to have sexually harassed another [worker] will be subject to disciplinary action up to and including termination.

(4) An worker who has made a false complaint of sexual harassment shall be subject to disciplinary action up to and including termination.

Confidentiality.

6. (1) All inquiries, complaints and investigations are treated with confidentiality. Information is revealed strictly on a need-to-know basis. However, the identity of the complainant usually is revealed to the accused respondent and witnesses.

(2) A [worker] or other individual contacted in connection with a complaint will be counselled that any information pertaining to the complaint must be held in confidence.

Monitoring,  
Evaluation and  
Annual Reports.

7. (1) All complaints will be documented and thoroughly archived for the purposes of monitoring and evaluation.

(2) [ ] will prepare an annual report on the incidence of sexual harassment. The annual report will include statistical information on the number of complaints and the outcome of complaints, but will not disclose the identity of any party, witness or other person involved in any case.

(3) Each annual report will be brought to the attention of all [workers / students / wards / inmates] and will be made available for inspection or copying on request.

### **THIRD SCHEDULE**

s.20(4)

#### **Oath of office for members of Tribunal**

I \_\_\_\_\_ do swear (affirm) that as a member of the Tribunal, I will, at all times and in all things, do equal justice to all persons and discharge the duties of my office according to law and to the best of my knowledge and ability without fear, favour or affection.