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TRANSNET



GROUP INTERNAL CONTROL



WHISTLE BLOWING POLICY

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Review Date:	n/a
Compiled By:	Group Internal Control: Garry Pita
Signature:	Garry Pita
Authorised By:	Chris Wells
Signature:	Chris Wells (4/6/2008)

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1. OBJECTIVES

- 1.1 *Transnet* developed this policy in response to the requirements of the Protected Disclosures Act No. 26 of 2000 ("PDA") and the needs of *Transnet*.
- 1.2 In terms of the PDA every employer and employee has a responsibility to disclose criminal and any other irregular conduct in the workplace.
- 1.3 The policy underpins *Transnet's* whistle blowing mechanism- the Tip Offs Anonymous line.
- 1.4 The purpose of the policy is to:
 - 1.4.1 build employee, employer and supplier loyalty through identifying and eliminating unethical practices;
 - 1.4.2 create a culture where suspicions of irregularities can be reported safely, without the fear of reprisal or victimisation;
 - 1.4.3 promote the eradication of criminal and other irregular conduct in *Transnet*, organs of state and private bodies; and
 - 1.4.4 provide guidance to *employees* on how to report their suspicions about possible unlawful and unethical conduct, or breaches of company policy which include all aspects of criminal and other irregular conduct;
 - 1.4.5 provide information on how an employee will be protected, and how to escalate the matter if they are subjected to an occupational detriment; and
 - 1.4.6 ensure *Transnet* complies with the PDA.
- 1.5 The effective implementation of the Policy will encourage a culture of trust and confidence between the employer and employee, thereby encouraging *employees* to report suspicions at an early stage. This will also increase stakeholder confidence in *Transnet*.
- 1.6 The policy should be read in conjunction with all *Transnet's* policies and procedures, with specific reference to the:
 - Code of Ethics;
 - Group Compliance Policy;
 - Group Legal Policy;
 - Group Operational Risk Management Policy;
 - Group Public Finance Management Act Policy;
 - Sexual Harassment Policy; and
 - Grievance Policy.

2. SCOPE

This policy applies to all *employees* of *Transnet*, as well as temporary, casual or contract workers and other relevant stakeholders within *Transnet*.

3. DEFINITIONS

3.1 "*Corruption*" is committed by any person who directly or indirectly –

- (a) *accepts, agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or*
- (b) *gives, agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner -*
 - (i) *that amounts to the –*
 - . illegal, dishonest, unauthorised, incomplete, or biased; or
 - . misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;
 - (ii) *that amounts to-*
 - . the abuse of a position of authority;
 - . a breach of trust; or
 - . the violation of a legal duty or a set of rules;
 - . designed to achieve an unjustified result; or
 - . that amounts to any other unauthorised or improper inducement to do or not to do anything.

3.2 "*Disclosure*" means any disclosure of information regarding any conduct of an employer, or an employee of that employer, made by any employee who has reason to believe that the information concerned shows or tends to show one or more of the following:

- (a) That a criminal offence has been committed, is being committed or is likely to be committed;
- (b) That a person has failed, is failing or is likely to fail to comply with any legal obligation to which the person is subject;
- (c) That a miscarriage of justice has occurred, is occurring or is likely to occur
- (d) That the health or safety of an individual has been, is being or is likely to be endangered;

- (e) That the environment has been, is being or is likely to be damaged;
 - (f) Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No, 4 of 2000); or
 - (g) That any matter referred to in paragraphs (a) to (f) has been, is being, or is likely to be deliberately concealed.
- 3.3 "*Employees*" means persons employed on both permanent and fixed-term contracts by *Transnet*.
- 3.4 "*Fraud*" refers to an unlawful and intentional misrepresentation, which causes actual prejudice or which is potentially prejudicial to another person.
- 3.5 "*Impropriety*" means any conduct which falls within any of the categories referred to in paragraphs (a) to (g) of the definition "*Disclosure*", irrespective of whether or not:
- (a) The impropriety occurs or occurred in the Republic of South Africa or elsewhere; or
 - (b) The law applying to the impropriety is that of the Republic of South Africa or of another country.
- 3.6 "*Occupational Detriment*" means victimisation, harassment or unfair labour practices" in the working environment.
- 3.7 "*PDA*" means the Protected Disclosures Act, No. 26 of 2000.
- 3.8 "*Protected Disclosure*" means a *disclosure* made to:
- (a) A legal adviser in accordance with section 5 of the Act;
 - (b) An employer in accordance with section 6 of the Act;
 - (c) A member of Cabinet or of the Executive council of a province in accordance with section 7 of the Act;
 - (d) A person or body in accordance with section 8 of the Act; or
 - (e) Any other person or body in accordance with section 9 of the Act, but does not include a *disclosure*:
 - (i) In respect of which the employee concerned commits an offence by making a *disclosure*; or
 - (ii) Made by a legal adviser to whom the information concerned was disclosed in the course of obtaining legal advice in accordance with section 5 of the Act.
- 3.9 "*Theft*" refers to the unlawful and intentional appropriation of property which belongs to another with the intention of permanently depriving the person of the property.
- 3.10 "*Transnet*" means Transnet Limited, including its operating divisions and *Corporate Centre*.

4. PRINCIPLES

- 4.1 *Transnet* will:
- 4.1.1 Promote a culture where suspicions of irregularities can be reported safely, without fear of reprisal or victimisation;
 - 4.1.2 Provide clear guidelines for the *disclosure* of such information;
 - 4.1.3 Promote responsible *disclosure* of information by *employees* relating to all aspects of criminal and other irregular conduct in the workplace;
 - 4.1.4 Take reasonable steps to ensure that *employees* that report their suspicions will be protected from any reprisals as a result of such *disclosure*, which includes but is not limited to:
 - (a) Being subjected to any disciplinary action;
 - (b) Being dismissed, suspended, demoted, harassed, or intimidated;
 - (c) Being transferred against his or her own will;
 - (d) Being refused transfer or promotion;
 - (e) Being subjected to a term or condition of employment or retirement which is altered or kept altered to his or her disadvantage;
 - (f) Being refused a reference, or being provided with an adverse reference, from his or her employer;
 - (g) Being denied appointment to any employment, profession or office;
 - (h) Being threatened with any of the actions referred to paragraphs (a) to (g) above; or
 - (i) Being adversely effected in respect of his her employment, profession or office, including employment opportunities and work security.
 - 4.1.5 Take reasonable steps to protect the identity and confidentiality of *employees* who make such *disclosures*;
 - 4.1.6 Ensure that *employees* are made aware of the policy, and *Transnet* will endeavour to make all *employees* aware of the policy;
 - 4.1.7 Ensure that there is an effective response to all *disclosure* reports brought to their attention and that those *employees* and third parties, who may be involved in any reportable circumstance as stated in the reporting requirements, are appropriately dealt with;

5. POLICY

- 5.1 All *employees* are required to disclose any information regarding conduct of an employer or employee in any of the following circumstances:
- 5.1.1 Criminal or other irregular conduct has been committed, or is being committed, or is likely to be committed; or
 - 5.1.2 A person has failed, or is failing, or is likely to fail to comply with any legal obligation to which the person is subject.
- 5.2 When any aspect of criminal or other irregular conduct is discovered or suspected, *employees* are required to immediately report this through one of the following:
- 5.2.1 Any Board Member;
 - 5.2.2 Any member of the Group or Divisional Executive Committee;
 - 5.2.3 Group or Divisional Legal;
 - 5.2.4 Any member of the Forensic Work Group;
 - 5.2.5 Group or Divisional Security Manager;
 - 5.2.6 Group or Divisional Employee Relations Manager;
 - 5.2.7 Line Manager; or
 - 5.2.8 Tip-offs Anonymous.
- 5.3 Employees must report allegations immediately and in good faith. Any employee who makes an allegation maliciously, for personal gain, or reward, **will not** be protected in terms of the Act. Any *disclosures* made with ulterior motives may lead to disciplinary action being taken against the employee.
- 5.4 This policy is not aimed at the reporting of employment / personal grievances, or general complaints, which should be dealt with in terms of the Grievance Policy.
- 5.5 The protection of the *PDA* and this policy only applies to *employees* that have disclosed their identity or where it has become known and that have followed the reporting process mentioned in Section 5.2 above and reported in good faith. This protection does not apply to those *employees* who have opted to disclose information based on their own irregular conduct.
- 5.6 *Transnet* will protect the individual's identity where it is disclosed. *Transnet* has a legal obligation to report suspected offences to the law enforcement authorities, therefore the investigation process may have to reveal the source of the information and a statement of the employee may then be required.
- 5.7 *Employees* will have a choice to report their suspicions directly to Tip-offs Anonymous where they do not have to disclose their personal details.

6. ACCOUNTABILITY

Accountable:	Group Chief Financial Officer
Responsible:	Group Head of Internal Control
Consultation:	Employees
Support:	Group ER & HR
Monitors and maintains:	Group Head of Internal Control

Garry.Pita@transnet.net

Telephone: +27 11 308 2761 / 2250 / 2319

Fax: +27 11 308 1269

Cell: +27 83 447 1209

