

# SITE GUIDE 07

## NON-COMPLIANCE GUIDE

### 1. PURPOSE

The purpose of this Non-Compliance Guide is to outline the process typically undertaken by PMG for enforcement and management of non-compliance of the Site Rules.

PMG may in its absolute discretion, bypass this Guide and immediately withdraw Site Access rights from any Person or Vehicle, if the actions of the Person in PMG's bona fide discretion, impact or risk the safety or health of any Person, or the lawful business on the Site of any Tenant.

Words and terms defined in the Site Rules and used in this Guide have the same meaning ascribed to them as in the Site Rules.

To the extent there are any inconsistencies between the Site Rules and the Guides, the Site Rules prevail.

### 2. ISSUANCE OF WARNINGS

- (a) Authorised Officers can issue verbal or written Warnings to any person for non-compliance with the Site Rules.
- (b) Written Warnings may be issued via electronic means.
- (c) Where the Person responsible for the breach cannot be identified, the Warning shall be issued to the Principal.
- (d) If the Person responsible for the breach is not a Tenant or Tenant employee, (Buyer or Grower) the warning shall be issued to the business responsible for the Person.
- (e) Warnings may also include a Remedial Action for cost recovery (as per Section 6).

### 3. ISSUANCE OF A FINAL NOTICE (PIN)

- (a) If three (3) or more safety related or five (5) or more non safety related (or any combination of the two) Warnings are issued to the same Person, within a three (3) month period, a Final Notice (PIN) may be sent to the relevant Person outlining any remedial actions, including any costs incurred and/or proposed as a result of the Person's non-compliance with the Site Rules.
- (b) Where the Person is believed by PMG to be an employee of a Tenant, Buyer, Transport Operator or Contractor, the PIN will also be sent to Person's employer.
- (c) If the Person who has not complied with these Site Rules is a:
  - (i) Tenant Employee; or
  - (ii) Sub-tenant, licensee or Contractor of a Tenant; or
  - (iii) an employee of any sub-tenant, licensee or Contractor of a Tenant;the Site Rules prescribe that the Tenant is also responsible and liable of such with the Person in breach of these Site Rules.
- (d) PMG has no obligation to impose any remedial action and is not liable to any Tenant or Person for any loss or damage that a Tenant or Person may suffer because of any Remedial Action being taken or not being taken by PMG.

- (e) Any failure or delay by PMG to exercise any right or impose any Remedial Action is not a waiver of such right or a waiver of any other non-compliance of the Site Rules.

#### **4. FINAL NOTICE INFORMATION**

- (a) Where a PIN is issued, it will include relevant information including:
  - (i) Non-compliances (such as the days, dates and times of each warning issued).
  - (ii) Vehicle and/or Forklift details (if applicable).
  - (iii) If the result of an incident, full details of the incident and the involvement of that Person in the incident.
  - (iv) Proposed Remedial Actions and Costs (as applicable).
  - (v) Actions and options available to the Person issued with the PIN.

#### **5. PRINCIPLES FOR ACTION**

- (a) PMG will treat the issuance of a PIN on a case by case basis.
- (b) When making a decision on what remedial action (if any) will be taken, the nature of each non-compliance will be considered on an individual basis taking into account variables such as:
  - (i) the nature of offence,
  - (ii) the location, time of offence,
  - (iii) the potential risk involved with the non-compliance and
  - (iv) the severity of incident.
- (c) Assaults (physical, verbal or other intimidatory actions) on PMG staff and/or Authorised Officers will not be tolerated and will carry a mandatory ongoing exclusion and withdrawal of access rights to the Site for a period determined by PMG.
- (d) Remedial actions will be proportionate to the breach taking into account some or all of the variables outlined in 5(b).

#### **6. REMEDIAL ACTIONS**

- (a) The types of remedial action available to PMG may include but are not limited to requiring the Person to pay all costs incurred by PMG as a result of the non-compliance with the Site Rules, including without limitation:
  - (i) administrative costs incurred in connection with investigating and assessing the non-compliance and the processing and issuing of Notices;
  - (ii) cleaning, repair and/or remediation costs to the Site;
  - (iii) levies, fees or fines imposed by PMG or on PMG by relevant authorities;
  - (iv) costs associated with towing Vehicles off this Site, and/or storing the same;
  - (v) costs associated with the removal and disposal of rubbish and other waste from the Site;
  - (vi) legal fees or any other professional fees incurred by PMG in connection with the non-compliance;
  - (vii) testing or screening services and fees / costs in connection with suspected drug and alcohol issues.

- (a) PMG may, at its absolute discretion (without limiting any other rights it has):
  - (i) vary the terms of the Person's access to the Site;
  - (ii) require a person to undertake a PMG Site Safety Induction or PMG Forklift Safety refresher;
  - (iii) impose a safety probation period;
  - (iv) suspend or cancel a Person's Forklift Operators Permit;
  - (v) suspend or cancel a Person's access to the Site (partially or in full) for such period as determined by PMG in its absolute discretion (which may, for the avoidance of doubt, be permanent);
  - (vi) suspend or cancel a Person's vehicle access to the Site (partially or in full) for such period as determined by PMG in its absolute discretion (which may, for the avoidance of doubt, be from one (1) week to permanent);
  - (vii) do any combination of these things.

## **7. WARNING AND FINAL NOTICE REMEDIAL ACTIONS**

- (a) A person issued with a Warning or PIN will be given the opportunity to reply in writing to the Warning or PIN within three (3) business days and either accept the remedial action proposed in the Warning or PIN or appeal the Warning or PIN.
- (b) Where the Person is an employee of a Tenant, Buyer or Transport Operator, PMG will contact the employer of the Person in respect to the proposed remedial action.
- (c) PMG will have due regard to any reply to the PIN in considering the remedial action intending to be taken and will initiate remedial actions within five (5) business days of receipt of any response.
- (d) Where there is no reply by the Person, the Remedial Actions outlined in the PIN will be applied.

## **8. WARNING AND FINAL NOTICE REMEDIAL ACTIONS (INVOLVING COSTS)**

- (a) The following applies concerning costs where the Warning or PIN is issued to:
  - (i) A Tenant – any Costs associated with the Warning or PIN. Costs will be invoiced to the Tenant;
  - (ii) A Tenant Employee – any costs included in the Warning or PIN is issued to the Tenant Employee. Where the Tenant Employee does not pay within the specified time listed in the Warning or PIN, then the Tenant must pay the costs within five (5) Business Days; or
  - (iii) Any other Person – any costs associated with the Warning or PIN must be paid within ten (10) Business Days of a Warning, PIN or invoice being issued to the Person.
- (b) Where a Person mentioned in (i), (ii) or (iii) above does not pay all costs associated with the Warning or PIN, such non-payment may attract an additional late payment fee and is a further non-compliance with the Site Rules. PMG may, as a separate remedial action, impose a withdrawal of Site Access rights and/or other remedial actions on the Person
- (c) PMG may set a fee for administrative costs in respect to investigating and assessing non-compliance of the Site Rules.

**9. APPEAL RIGHTS TO REVIEW WARNING OR FINAL NOTICE**

- (a) A Person who has received a Warning or PIN and has replied in writing, within three (3) business days of the issuance of the Warning or PIN, may exercise a right of appeal against the Warning or PIN or the proposed remedial action to PMG's Chief Executive Officer (CEO).
- (b) On review of the issues raised in the Person's written appeal by the PMG CEO, PMG may vary any remedial action and/or costs referred to in the Warning or PIN. PMG will provide its determination within five (5) business days of receipt of the appeal.

**10. EXCLUSION FROM AND WITHDRAWAL OF ACCESS TO THE SITE**

- (a) Where an exclusion from and withdrawal of right of access to the Site is applied, a separate letter will be issued to the Person outlining the conditions and timing thereof.
- (b) Where an exclusion or withdrawal of right of access to the Site is imposed on a Person for more than one (1) calendar month, the Site Access Card issued to that Person is deemed cancelled and the Person must make an application for a new Site Access Card and pay all associated fees.
- (c) Where a Site Access Card is cancelled, no refund will be given however the card may be reissued to other Tenant Employees as per Section 10(d) of the Site Access Guide
- (d) For a Person who previously has been excluded from or had their continuing access to Site denied, PMG may in its absolute discretion grant or reject a new application or apply additional conditions to the Site Access Card conditions, such as a probation period.

