

A BILL

FOR

AN ACT TO PROTECT PERSONS MAKING DISCLOSURES FOR THE PUBLIC INTEREST AND OTHERS FROM REPRISALS, TO PROVIDE FOR THE MATTERS DISCLOSED TO BE PROPERLY INVESTIGATED AND DEALT WITH AND FOR OTHER PURPOSES RELATED THEREWITH

Sponsored by Senator Biodun Christine Olujimi

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows-

1 PART I - PRELIMINARY

2 1. The purposes of this Act are-

Purposes

3 (a) to encourage and facilitate disclosures of improper conduct by
4 public officers and public bodies; and

5 (b) to provide protection for-

6 (i) persons who make those disclosures; and

7 (ii) persons who may suffer reprisals in relation to those
8 disclosures; and

9 (c) To provide for the matters disclosed to be properly investigated
10 and dealt with.

11 PART II - DISCLOSURES OF IMPROPER CONDUCT

12 Who can make a disclosure about improper conduct?

13 2. A natural person who believes on reasonable grounds that a
14 public officer or public body-

15 (a) has engaged, is engaging or proposes to engage in improper
16 conduct in their capacity as a public officer or public body; or

17 (b) has taken, is taking or proposes to take detrimental action in
18 contravention of Section 15 may disclose that improper conduct or
19 detrimental action in accordance with the provisions of this Act.

1 To whom can a disclosure be made?

2 3.-(1) Subject to the provisions of this Act, a disclosure under this Part
3 shall be made to the Commission;

4 (2) A disclosure-

5 (a) may be made orally or in writing; and

6 (b) shall be made in accordance with the prescribed procedure.

7 Can a person make an anonymous disclosure?

8 4. A person may make an anonymous disclosure under this Part.

9 Is it necessary to know who has engaged in the conduct about which the
10 disclosure is made?

11 5. A person may make a disclosure under this Part even if the person
12 cannot identify the person or body to whom or which the disclosure relates.

13 Can a disclosure be about past conduct?

14 6. A person may make a disclosure under this Part about conduct that
15 has occurred before the commencement of this Act.

Privileges of
members of the
National Assembly
and legal
professional
privilege not
affected

16 7.-(1) Nothing in this Act derogates from the privileges, immunities
17 and powers held, possessed or enjoyed by law or otherwise by members of the
18 National Assembly.

19 (2) Nothing in this Act entitles a person to disclose information that is
20 the subject of legal professional privilege.

21 PART III - PROTECTION OF WHISTLE BLOWERS

Application of
Part

22 8. This Part applies only to a protected disclosure.

23 What is a protected disclosure?

24 9. A protected disclosure is a disclosure made in accordance with Part
25 II of this Act.

Immunity from
liability

26 10.-(1) A person who makes a protected disclosure is not subject to
27 any civil or criminal liability or any liability arising by way of administrative
28 process (including disciplinary action) for making the protected disclosure.

29 (2) any provision in an agreement to which this Part applies is void in
30 so far as it purports to preclude the worker from making a protected disclosure.

- 1 **11.** Without limiting Section 10, in proceedings for defamation
2 there is a defence of absolute privilege in respect of the making of a
3 protected disclosure. Protection from
defamation action
- 4 **12.**-(1) Despite anything to the contrary in this Part, a person's
5 liability for his or her own conduct are not affected by the person's disclosure
6 of that conduct under this Act. Liability for
own conduct
- 7 (2) A disclosure of information is not a protected disclosure if the
8 person making the disclosure commits an offence by making it.
- 9 **13.**-(1) A person who takes detrimental action against a person in
10 reprisal for a protected disclosure commits an offence and is liable on
11 conviction to a fine not exceeding Three Hundred Thousand Naira
12 (N300,000) or to imprisonment for a term of not more than Two years or to
13 both. Protection from
reprisal
- 14 (2) A person takes detrimental action in reprisal for a protected
15 disclosure if-
- 16 (a) the person takes or threatens to take the action because-
- 17 (i) a person has made, or intends to make, a protected disclosure; or
18 (ii) the person believes that a person has made or intends to make
19 the protected disclosure; or
- 20 (b) the person incites or permits another person to take or threaten
21 to take the action for either of those reasons.
- 22 (3) In determining whether a person takes detrimental action in
23 reprisal it is irrelevant whether or not a reason referred to in sub-section (2) is
24 the only or dominant reason as long as it is a substantial reason.
- 25 **14.**-(1) A person who takes detrimental action against a person in
26 reprisal for a protected disclosure is liable in damages to that person. Proceedings for
damages for
reprisal
- 27 (2) The damages may be recovered in proceedings as for a tort in
28 any court of competent jurisdiction.
- 29 (3) The right of a person to bring proceedings for damages does not
30 affect any other right or remedy available to the person arising from the

	1	detrimental action.
Application for injunction of order	2	15. A person who believes that detrimental action has been taken or
	3	may be taken against him or her in reprisal for a protected disclosure may apply
	4	to the Federal High Court for-
	5	(a) an order requiring the person who has taken the detrimental action
	6	to remedy that action; or
	7	(b) an injunction.
Injunction or order	8	16.-(1) If, on receipt of an application under Section 15 the Federal
	9	High Court is satisfied that a person has taken or intends to take detrimental
	10	action against a person in reprisal for a protected disclosure, the Court may-
	11	(a) order the person who took the detrimental action to remedy that
	12	action; or
	13	(b) grant an injunction in any terms the Court considers appropriate.
	14	(2) The Federal High Court, pending the final determination of an
	15	application under Section 15, may-
	16	(a) make an interim order in the terms of sub-section (1)(a); or
	17	(b) grant an interim injunction.
Offence reveal confidential information	18	17. A person who obtains or receives information in the course of or
	19	as a result of a protected disclosure or the investigation of a disclosed matter
	20	under this Act who without reasonable cause discloses that information
	21	commits an offence and is liable on conviction to a fine not exceeding One
	22	Hundred Thousand Naira (N100, 000) or to imprisonment for a term, of not
	23	more than One year or to both.
	24	PART IV - DETERMINATION OF PUBLIC INTEREST DISCLOSURES
Determination of disclosure as public interest disclosure	25	18.-(1) If a person makes a disclosure to the Chief Commissioner in
	26	accordance with Part II, the Chief Commissioner shall, within a reasonable
	27	time after receiving the disclosure, determine whether the disclosure is a public
	28	interest disclosure.
	29	(2) In making a determination under sub-section (1), the Chief
	30	Commissioner shall be satisfied that the disclosure shows or tends to show that

1 a public officer or public body-

2 (a) has engaged, is engaging or proposes to engage in improper
3 conduct in their capacity as a public officer or public body; or

4 (b) has taken, is taking or proposes to take detrimental action in
5 contravention of Section 13.

6 **19.**-(1) The Chief Commissioner shall, within a reasonable time,
7 notify the person who made the disclosure of the determination under
8 Section 18(Determination of disclosure as public interest disclosure) in
9 respect of the disclosure.

Notice of
determination

10 (2) This section does not apply in respect of a person who made an
11 anonymous disclosure.

12 **PART V - INVESTIGATION OF PUBLIC INTEREST DISCLOSURES BY THE**
13 **CHIEF COMMISSIONER**

14 What are the Chief Commissioner's functions under the Act?

15 **20.** The Chief Commissioner's functions under this Act are-

16 (a) to determine whether disclosures are public interest
17 disclosures;

18 (b) to investigate matters disclosed in public interest disclosures;

19 (c) to prepare and publish guidelines for the procedures to be
20 followed by public bodies in relation to-

21 (i) disclosures under Part II; and

22 (ii) investigations under Part VI.

23 (d) to monitor investigations by public bodies under Part VI; and

24 (e) any other function conferred on the Chief Commissioner by or
25 under this Act.

26 **21.** Subject to the provisions of this Act, the Chief Commissioner
27 shall investigate every disclosure the he has determined is a public interest
28 disclosure.

Duty to investigate

29 Which matters do not have to be investigated?

30 **22.** -(1) The Chief Commissioner may decide not to investigate a

1 disclosed matter-

2 (a) if in his or her opinion the disclosure-

3 (i) is trivial;

4 (ii) is frivolous or vexatious; or

5 (b) if the person making the disclosure had knowledge for more than
6 12 months of the disclosed matter and failed to give a satisfactory explanation
7 for the delay in making the disclosure.

8 (2) The Chief Commissioner must-

9 (a) within a reasonable time, notify the person making the disclosure
10 of his or her decision under sub-section (1) not to investigate the disclosed
11 matter; and

12 (b) give reasons for that decision.

13 *Referral of matters for investigation otherwise than under this Act*

Referral of public
interest disclosures
to relevant public
body for
investigation

14 **23.**-(1) Subject to Sub-Section (2), the Chief Commissioner may refer
15 a disclosed matter to a public body to investigate if-

16 (a) the matter relates to a member, officer or employee of the public
17 body; and

18 (b) the Chief Commissioner considers it appropriate to do so.

19 (2) Part 6 applies to the investigation of a matter referred to a public
20 body under this section.

21 *Investigation by Chief Commissioner*

Procedure for
investigation

22 **24.** Subject to the Provisions of this Act, the Commission may
23 regulate its procedures on an investigation of a disclosed matter in any manner
24 that it thinks fit.

Secondment of
members of the
Police Force for
certain
investigations

25 **25.**-(1) The Commission may request the Inspector General of Police
26 to make available members of the Police Force to assist the Chief
27 Commissioner in the investigation of a disclosed matter.

28 (2) On a request under sub-section (1), the Inspector General of
29 Police, shall make available such members of the Police Force as the Inspector
30 General of Police thinks necessary to assist the Chief Commissioner in the

1 investigation of a disclosed matter.

2 (4) Every member of the police force made available to the
3 Commission under this section remains under the direction and control of
4 the Inspector General of Police but shall in assisting the Chief
5 Commissioner have regard to the wishes of the Chief Commissioner
6 concerning the conduct of an investigation.

7 **26.**-(1) The Commission may request a prescribed public body to
8 make available staff to assist the Chief Commissioner in the investigation of
9 a disclosed matter.

Secondment of
others for certain
investigations

10 (2) On a request under sub-section (1), the prescribed public body
11 shall make available such staff as the prescribed public body thinks
12 necessary to assist the Chief Commissioner in the investigation of a
13 disclosed matter.

14 (3) Every person made available to the Commission under this
15 section remains under the direction and control of the prescribed public
16 body but shall in assisting the Chief Commissioner have regard to the wishes
17 of the Chief Commissioner concerning the conduct of an investigation.

18 **27.** Before conducting an investigation of a disclosed matter, the
19 Chief Commissioner shall in writing inform the relevant person or body of
20 his or her intention to do so.

Notice of the
investigation

21 **28.** The investigation by the Chief Commissioner of a disclosed
22 matter shall be conducted in private.

Investigation to
be private

23 **29.** The Commission is not required to hold a hearing for the
24 purposes of an investigation of a disclosed matter.

A hearing if not
required

25 **30.** The Commission may determine whether or not any person
26 may be represented by a legal practitioner or otherwise at a hearing in an
27 investigation by the Chief Commissioner of a disclosed matter.

Legal
representation

28 How is evidence to be taken?

29 **31.**-(1) Subject to the provisions of this Act and the Evidence Act,
30 the Chief Commissioner may obtain information from any person and in any

1 manner he or she thinks fit for the purposes of an investigation of a disclosed
2 matter.

3 (2) for the purpose of an investigation of a disclosed matter, the Chief
4 Commissioner may take a statutory declaration from any witness or other
5 person.

6 Can privileged or confidential information be disclosed to the Chief
7 Commissioner?

8 32.-(1) An obligation to maintain confidentiality or any other
9 restriction on the disclosure of information obtained by or furnished to persons
10 in the service of the Federal Government or any public body that is imposed by
11 any Act or under an agreement does not apply to the disclosure of information
12 for the purposes of an investigation by the Chief Commissioner of a disclosed
13 matter.

14 (2) The Federal Government is not, in relation to an investigation by
15 the Chief Commissioner of a disclosed matter, entitled to any privilege in
16 respect of the production of documents or the giving of evidence that is allowed
17 by law in legal proceedings.

Power to enter
premises

18 33. For the purpose of conducting an investigation of a disclosed
19 matter, the Chief Commissioner or any officer of the Commission authorised
20 for that purpose may at any reasonable time-

21 (a) enter any premises occupied or used by a public officer or public
22 body in their capacity as such; and

23 (b) inspect those premises or anything for the time being in them or on
24 them.

Powers with
search warrant

25 34.-(1) The Commission may apply to a magistrate for the issue of a
26 search warrant in relation to particular premises if the Chief Commissioner
27 believes; on reasonable grounds that entry to the premises is necessary for the
28 purpose of an investigation.

29 (2) If a magistrate is satisfied by evidence on oath, whether oral or by
30 affidavit, that there are reasonable grounds for the belief under sub-section (1),

1 the magistrate may issue a search warrant authorising any person named in
2 the warrant-

3 (a) to enter and search the premises named or described in the
4 warrant and inspect any document or thing at those premises;

5 (b) to make a copy of any document relevant, or that the person
6 reasonably considers may be relevant, to the investigation; and

7 (c) to take possession of any document or thing that the person
8 considers relevant to the investigation.

9 (3) A search warrant issued under this section must state-

10 (a) the purpose for which the search is required;

11 (b) any conditions to which the warrant is subject;

12 (c) whether entry is authorised to be made at any time of the day or
13 night or during stated hours of the day or night; and.

14 (d) a day, not later than 28 days after the issue of the warrant, on
15 which the warrant ceases to have effect.

16 (4) For the avoidance of doubt, this section applies to any premises,
17 whether or not occupied by a public officer or public body.

18 **35.-(1)** On executing a search warrant, the person executing the
19 warrant-

Procedure for
executing warrants

20 (a) must announce that he or she is authorised by the warrant to
21 enter the premises; and

22 (b) if the person has been unable to obtain unforced entry, must
23 give any person at the premises an opportunity to allow entry to the
24 premises.

25 (2) A person executing a warrant need not comply with sub- section
26 (1) if he or she believes, on reasonable grounds that immediate entry to the
27 premises is required to ensure-

28 (a) that the effective execution of the search warrant is not
29 frustrated.

30 (3) If the occupier is present at a' premise where a search warrant is

- 1 being executed, the person executing the warrant must-
- 2 (a) identify himself or herself to the occupier; and
- 3 (b) give the occupier a copy of the warrant.
- 4 (4) If the occupier is not present at premises where a search warrant is
- 5 being executed, the person executing the warrant must-
- 6 (a) identify himself or herself to a person at the premises; and
- 7 (b) give that person a copy of the warrant.

Obstruction

- 8 **36.-(1)** A person who-
- 9 (a) without lawful excuse, willfully obstructs, hinder or resists the
- 10 Chief Commissioner in the exercise of his or her powers under this Act;
- 11 (b) without lawful excuse, refuses to or willfully fails to comply with
- 12 any lawful requirement of the Chief Commissioner under this Act;
- 13 (c) makes a statement the person knows to be false or misleading in a-
- 14 material respect to the Chief Commissioner in the course of an investigation
- 15 under this Act; or
- 16 (c) knowingly misleads or attempts to mislead the Chief
- 17 Commissioner in the course of an investigation under this Act;
- 18 commits an offence and is liable on conviction to a fine not exceeding One
- 19 Hundred Thousand Naira (N100,000) or to imprisonment for a term of not more
- 20 than One year or to both

Report on
investigation

- 21 **37.-(1)** On the completion of an investigation of a disclosed matter
- 22 the Chief Commissioner-
- 23 (a) shall report the findings of the investigation to the relevant person;
- 24 and
- 25 (b) shall make recommendations as to the action to be taken as a result
- 26 of the investigation.
- 27 (3) Recommendations under sub-section (1) may include-
- 28 (a) a recommendation that the disclosed matter be referred to an
- 29 appropriate authority for further investigation and necessary action;
- 30 (b) a recommendation that action be taken to remedy any harm or loss

1 arising from the conduct;

2 (c) a recommendation that action be taken to prevent the conduct
3 from continuing or occurring in the future ..

4 **38.-(1)** If the Chief Commissioner investigates a disclosed matter
5 or takes any other action under this Act in respect of a disclosed matter, the
6 Chief Commissioner must, within a reasonable time after the completion of
7 the investigation, inform the person who made the disclosure of the result of
8 the investigation or other action.

Person who made
disclosure to be
informed

9 (2) The information may be provided in the manner that the chief
10 Commissioner thinks fit.

11 (3) The Chief Commissioner may disclose to the person who made
12 the disclosure any additional information that the Chief Commissioner
13 thinks appropriate.

14 (4) This section does not apply in respect of a person who made an
15 anonymous disclosure.

16 PART VI -INVESTIGATION OF PUBLIC INTEREST DISCLOSURES

17 BY PUBLIC BODIES

18 **39.-(1)** A public body shall establish procedures-

Public body to
establish
procedures

19 (a) to facilitate the making of disclosures under Part 2;

20 (b) for investigations of disclosed matters; and

21 (c) for the protection of persons from reprisals by the public body
22 or any member, officer or employee of the public body because of
23 disclosures.

24 (2) The procedures shall be established-

25 (a) in the case of a public body existing immediately before the
26 commencement of this Act, as soon as practicable after that commencement;
27 and

28 (b) in the case of a public body established on or after that
29 commencement, as soon as practicable after that body is established.

30 (1) The procedures shall comply with this Act and the guidelines

	1	for the time being in force under this Act.
Public Complaints Commission's guidelines	2	40. -(1) The Commission shall prepare and publish guidelines for
	3	procedures-
	4	(a) to facilitate the making of disclosures to public bodies under Part
	5	II; and
	6	(b) for investigations under this Act of disclosed matters; and
	7	(c) for the protection of persons from reprisals by public bodies or
	8	members, officers or employees of public bodies because of disclosures.
	9	(2) The Commission may from time to time amend the guidelines
	10	prepared under sub-section (1).
Availability of procedures	11	41. -(1) A public body shall make a copy of its procedures under S. 39
	12	available to each staff, officer and employee of the public body.
	13	(2) A public body shall keep a copy of its procedures under this section
	14	available at its offices for inspection by the public during normal office hours
	15	free of charge.
Review of procedures	16	42. -(1) The Commission may review the procedures of a public body
	17	at any time to ensure that the procedures comply with this Act and the
	18	Commissions' guidelines.
	19	(2) The Commission may review the implementation of the
	20	procedures of a public body to ensure that their implementation complies with
	21	this Act and the Commission's guidelines.
	22	(3) The Commission may make any recommendation to a public body
	23	that the Commission thinks fit arising from a review under this section.
Referral to Chief Commissioner by public body	24	43. A public body shall refer the investigation of a disclosed matter to
	25	the Chief Commissioner if the public body considers its own investigation is
	26	being obstructed.
Request to Chief Commissioner by person making disclosure	27	44. If a disclosed matter has been referred to a public body to be
	28	investigated under this Part, the person who made the disclosure may request
	29	the Chief Commissioner to investigate the disclosed matter if-
	30	(a) the public body fails to investigate the matter;

1 (b) the person is dissatisfied with the manner in which the public
2 body is carrying out an investigation of the matter; or

3 (c) the person is dissatisfied with the steps taken by the public
4 body after the investigation of the matter;

5 **45.** If the Chief Commissioner is not satisfied with an investigation
6 of a disclosed matter by a public body under this Act, he may take over the
7 investigation.

Chief Commissioner
may take over an
investigation

8 **46.** If the Chief Commissioner commences or takes over an
9 investigation of a disclosed matter that a public body was to investigate or
10 has commenced investigating, the public body must give to the Chief
11 Commissioner in writing any information that it has and any findings,
12 preliminary or otherwise, that it has made in respect of the matter.

Provision of
information to
Chief Commissioner

13 What can the Chief Commissioner do?

14 **47.**-(1) If an investigation by a public body is referred to the Chief
15 Commissioner under Section 43 or taken over by the Chief Commissioner
16 under Section 45, or a request is made under section 44, the Chief
17 Commissioner may-

18 (a) commence a new investigation;

19 (b) complete the investigation; or

20 (c) refer the investigation back to the public body to investigate
21 with recommendations about the future conduct of the investigation; or

22 (d) refer the matter to another public body to investigate.

23 (2) If a request is made under section 44 or an investigation is taken
24 over by the Chief Commissioner under section 45, the Chief Commissioner
25 may also inquire into the conduct of the investigation by the public body.

26 **48.**-(1) If a public body refers an investigation to the Chief
27 Commissioner under this Act, the public body shall give notice of that
28 referral to the person who made the disclosure unless it was an anonymous
29 disclosure.

Notice of referral

30 (2) If the Chief Commissioner takes over an investigation of a

1 disclosed matter under this Act, the Chief Commissioner shall give notice of
 2 that fact to the person who made the disclosure unless it was an anonymous
 3 disclosure.

4 INVESTIGATION BY PUBLIC BODY

Investigation to
 be in accordance
 with procedures

5 49. An investigation under this Act by a public body of a disclosed
 6 matter shall be in accordance with the procedures established for the public
 7 body.

Information
 about progress
 of investigation

8 50.-(1) A public body conducting an investigation of a disclosed
 9 matter shall, at the request of the Chief Commissioner or person who made the
 10 disclosure, give the Chief Commissioner or the person (as the case requires)
 11 reasonable information about the investigation.

12 (2) A public body shall give the information within 28 days of
 13 receiving the request.

14 (3) A public body is not required to give the information to the person
 15 who made the disclosure if-

- 16 (a) the information requested has already been given to that person;
- 17 (b) the giving of the information requested would endanger the safety
 18 of any person or prejudice the conduct of the investigation.

Report to person
 making disclosure

19 51.-(1) Within a reasonable time after completing an investigation of
 20 a disclosed matter, the public body shall inform the person who made the
 21 disclosure of the findings of the investigation and the steps (if any).

22 (2) This section does not apply in respect of a person who made an
 23 anonymous disclosure.

24 What action must the public body take?

25 52.-(1) If, on completing an investigation of a disclosed matter, the
 26 public body finds that the conduct that was the subject of the investigation has
 27 occurred, the public body shall-

- 28 (a) report the findings of the investigation to the Commission.
- 29 (b) take all reasonable steps to prevent the conduct from continuing or
 30 occurring in the future; and

1 (c) take action to remedy any harm or loss arising from the conduct.

2 (2) The steps to be taken may include-

3 (a) the bringing of disciplinary action against the person
4 responsible for the conduct that was the subject of the investigation; and

5 (b) the referral of the matter to an appropriate authority for further
6 consideration.

7 PART VII - ANNUAL REPORTS AND OTHER REPORTS

8 53. The chief commissioner shall at the beginning of each year
9 cause to be laid before each House of the National Assembly an annual
10 report including-

Annual report by
the Public
Complaints
Commission

11 (a) the current guidelines published by the Commission under Part
12 IV.

13 (b) the number and types of disclosures made to the Commission
14 during the year;

15 (c) the number and types of determinations made by the Chief
16 Commissioner during the year as to whether disclosures are public interest
17 disclosures;

18 (d) the number and types of disclosed matters that during the year
19 the Chief Commissioner has investigated;

20 (e) the number and types of disclosed matters-

21 (i) that the Chief Commissioner has declined to investigate during
22 the year;

23 (ii) that were referred by a public body during the year to the Chief
24 Commissioner to investigate.

25 (f) the number and types of investigations of disclosed matters
26 taken over by the Chief Commissioner during the year;

27 (g) the number and types of investigations of disclosed matters for
28 which the Chief Commissioner has made a recommendation during the
29 year;

30 (h) the recommendations made by the Chief Commissioner during

1 the year in relation to each type of disclosed matter;
 2 (k) the recommendations made by the Chief Commissioner during
 3 the year in relation to the procedures established by a public body under Part
 4 IV;

5 (l) the action taken during the year on each recommendation of the
 6 Chief Commissioner under this Act.

Annual reports
by public body

7 **54.** If a public body is required by an Act to prepare a report of
 8 operations or an annual report on its activities during a year, the report must
 9 include-

10 (a) the current procedures established by the public body under Part
 11 IV;

12 (b) the number and types of disclosures made to the public body
 13 during the year;

14 (c) the number of disclosures referred during the year by the public
 15 body to the Chief Commissioner for determination as to whether they are
 16 public interest disclosures;

17 (d) the number and types of disclosed matters referred to the public
 18 body during the year by the Chief Commissioner;

19 (e) the number and types of disclosed matters referred during the year
 20 by the public body to the Chief Commissioner to investigate;

21 (f) the number and types of investigations of disclosed matters taken
 22 over by the Chief Commissioner from the public body during the year;

23 (g) the number and types of disclosed matters that were substantiated
 24 on investigation and the action taken on completion of the investigation;

25 (h) any recommendations of the Chief Commissioner under this Act
 26 that relate to the public body.

27 PART VIII - GENERAL

Protection of the
Chief Commissioner
and other officers
of the Commission

28 **55.**-(1) The Chief Commissioner, and any other officer of the
 29 Commission are not liable, whether on the ground of want of jurisdiction or on
 30 any other ground, to any civil or criminal proceedings to which he or she would

1 have been liable apart from this section in respect of any act done or
2 purporting to be done under this Act, unless the act was done in bad faith.

3 (2) No civil or criminal proceedings may be brought against the
4 chief Commissioner, or any officer of the Public Complaints
5 Commission in respect of any act of a kind referred to in sub- section (1)
6 without the leave of the Federal High Court.

7 (3) The Federal High Court may not give leave unless it is satisfied
8 that there is substantial ground to believe that the person to be proceeded
9 against has acted in bad faith.

10 (4) Despite sub-sections (1), (2) and (3)-

11 (a) no order may be made-

12 (i) restraining the Chief Commissioner from carrying out, or
13 compelling him or her to carry out, any investigation;

14 (ii) restraining the Chief Commissioner from reporting on, or
15 compelling him or her to report on, the findings of any investigation; or

16 (iii) restraining the Chief Commissioner from making a
17 recommendation, or compelling him or her to make a recommendation, in
18 respect of a public officer or public body in a report of any investigation; and

19 (b) no proceedings may be brought against the Chief
20 Commissioner under which the issue of such an order is sought.

21 **56. In this Act-**

Interpretation

22 "Chief Commissioner" means the person appointed as the Chief
23 Commissioner of the Public Complaints Commission under section 1 of the
24 Public Complaints Commission Act, Cap P3 7, 2004;

25 "Commission" means the Public Complaints Commission, established
26 under the Public Complaints Commission Act, Cap P37 of 2004;

27 "detrimental action" includes-

28 (a) action causing injury, loss or damage; and

29 (b) intimidation or harassment.

1 (c) discrimination, disadvantage or adverse treatment in relation to
2 person's employment, career, profession, trade or business, including the
3 taking of disciplinary action;

4 "disclosed matter" means a matter disclosed in a disclosure determined by the
5 Chief Commissioner under Part IV (S 24) to be a public interest disclosure;

6 "improper conduct" means any conduct, which tends to show one or more of
7 the following-

8 (a) that a criminal offence has been committed is being committed or
9 is likely to be committed,

10 (b) that a person has failed, is failing or is likely to fail to comply with
11 any legal obligation to which he is subject,

12 (c) that miscarriage of justice has occurred, is occurring or is likely to
13 occur,

14 (d) that information: tending to show any matter falling within anyone
15 of the preceding paragraphs has been, is being or is likely to be deliberately
16 concealed.

17 "protected disclosure" has the meaning given to it by Section 9;

18 "relevant Minister" means-

19 (a) in relation to a public body, means the Minister responsible for that
20 public body; or

21 (b) in relation to a public officer, means the Minister responsible for
22 that public officer;

Citation

23 57. This bill may be cited as the Whistle Blowers Protection Bill,
24 2015.

EXPLANATORY MEMORANDUM

The Bill seeks to encourage and facilitate the disclosures of improper conduct by public officers and public bodies, protect persons making those disclosures and others from reprisals, and provide for the matters disclosed to be properly investigated and dealt with and for other purposes related therewith.