



An Bille um Nochtadh Cosanta, 2013
Protected Disclosures Bill 2013

Mar a ritheadh ag Seanad Éireann

As passed by Seanad Éireann



AN BILLE UM NOCHTADH COSANTA, 2013
PROTECTED DISCLOSURES BILL 2013

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AN BILLE UM NOCHTADH COSANTA, 2013
PROTECTED DISCLOSURES BILL 2013

Bill

entitled

An Act to make provision for and in connection with the protection of persons from the taking of action against them in respect of the making of certain disclosures in the public interest and for connected purposes. 5

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

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Short title and commencement

1. (1) This Act may be cited as the Protected Disclosures Act 2013.
- (2) This Act comes into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 15

Provision for review

2. The Minister shall—
 - (a) not later than the end of the period of 5 years beginning on the day on which this Act is passed, commence a review of the operation of this Act, and 20
 - (b) not more than 12 months after the end of that period, make a report to each House of the Oireachtas of the findings made on the review and of the conclusions drawn from the findings.

Interpretation

3. (1) In this Act— 25
 - “contract of employment” means contract of service or apprenticeship, whether express or implied, and (if express) whether oral or in writing;
 - “disclosure”, in a case in which information disclosed is information of which the

person receiving the information is already aware, means bringing to the person's attention;

"educational establishment" means any university, college, school or other educational establishment;

"employee" has the meaning given by section 1 of the Unfair Dismissals Act 1977; 5

"employer", in relation to a worker, means (subject to *subsection (2)(b)*) the person with whom the worker entered into, or for whom the worker works or worked under, a contract of employment or any other contract whereby the worker undertook to do or perform personally any work or services, and includes—

(a) a person (other than another worker with the same employer) under whose direction and control the worker works or worked, 10

(b) in the case of a person who is a worker by virtue of *paragraph (c)* of the definition of that term, the person who substantially determines or determined the terms on which the worker was engaged, and

(c) in the case of a person who is a worker by virtue of *paragraph (d)* of the definition of that term, the person who provides or provided the work experience or training; 15

"member of the Garda Síochána" has the meaning given by section 3 of the Garda Síochána Act 2005;

"Minister" means Minister for Public Expenditure and Reform; 20

"penalisation" means any act or omission that affects a worker to the worker's detriment, and in particular includes—

(a) suspension, lay-off or dismissal,

(b) demotion or loss of opportunity for promotion,

(c) transfer of duties, change of location of place of work, reduction in wages or change in working hours, 25

(d) the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty),

(e) unfair treatment,

(f) coercion, intimidation or harassment, 30

(g) discrimination, disadvantage or unfair treatment,

(h) injury, damage or loss, and

(i) threat of reprisal;

"protected disclosure" shall be construed in accordance with *section 5*;

"public body" means— 35

(a) a Department of State,

(b) a local authority within the meaning of the Local Government Act 2001,

- (c) any other entity established by or under any enactment (other than the Companies Acts), statutory instrument or charter or any scheme administered by a Minister of the Government,
 - (d) a company (within the meaning of the Companies Acts) a majority of the shares in which are held by or on behalf of a Minister of the Government, 5
 - (e) a subsidiary (within the meaning of the Companies Acts) of such a company,
 - (f) an entity established or appointed by the Government or a Minister of the Government,
 - (g) any entity (other than one within *paragraph (e)*) that is directly or indirectly controlled by an entity within any of *paragraphs (b) to (f)*, or 10
 - (h) an entity on which any functions are conferred by or under any enactment (other than the Companies Acts), statutory instrument or charter,
 - (i) an institution of higher education (within the meaning of the Higher Education Authority Act 1971) in receipt of public funding;
- “relevant information” shall be construed in accordance with *section 5(2)*; 15
- “relevant wrongdoing” shall be construed in accordance with *subsections (3) to (5) of section 5*;
- “trade union official” means an official of a trade union licensed under the Trade Union Acts 1871 to 1990;
- “worker” means an individual who— 20
- (a) entered into or works or worked under a contract of employment,
 - (b) entered into or works or worked under any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual—
 - (i) undertook to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual, or 25
 - (ii) undertook to do or perform (whether personally or otherwise) any work or services for another such party to the contract, for the purposes of the party’s business, in a place not under the control or management of the party, 30
 - (c) works or worked for a person in circumstances in which—
 - (i) the individual is introduced or supplied to do the work by a third person, and
 - (ii) the terms on which the individual is engaged to do the work are or were in practice substantially determined not by the individual but by the person for whom the individual works or worked, by the third person or by both of them, 35
- or
- (d) is or was provided with work experience pursuant to a training course or programme or with training for employment (or with both) otherwise than—

(i) under a contract of employment, or
(ii) by an educational establishment on a course provided by the establishment,
and any reference to a worker being employed or to employment shall be construed accordingly.

- (2) For the purposes of this Act— 5
- (a) a person who holds or has held office under, or in the service of, the State, including—
- (i) as a member of the Garda Síochána,
- (ii) as a member of the Permanent Defence Force (within the meaning of the Defence Act 1954) or the Reserve Defence Force (within the meaning of that Act), or 10
- (iii) otherwise as a civil servant (within the meaning of the Civil Service Regulation Act 1956),
shall be deemed to be a worker;
- (b) “employer”, in relation to a member of the Garda Síochána (other than the Commissioner of the Garda Síochána), means the Commissioner of the Garda Síochána. 15

Expenses

4. The expenses incurred by the Minister under this Act shall be paid out of moneys provided by the Oireachtas. 20

PART 2

PROTECTED DISCLOSURES

Protected disclosures

5. (1) For the purposes of this Act “protected disclosure” means, subject to *subsection (6)* and *sections 17* and *18*, a disclosure of relevant information made by a worker in accordance with *section 6, 7, 8, 9* or *10*. 25
- (2) For the purposes of this Act information is “relevant information” if—
- (a) in the reasonable belief of the worker, it tends to show one or more relevant wrongdoings, and
- (b) it came to the attention of the worker in connection with the worker’s employment. 30
- (3) The following matters are relevant wrongdoings for the purposes of this Act—
- (a) that an offence has been, is being 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, other than one arising under the worker’s contract of employment or 35

- other contract whereby the worker undertakes to do or perform personally any work or services,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
 - (d) that the health or safety of any individual has been, is being or is likely to be endangered, 5
 - (e) that the environment has been, is being or is likely to be damaged,
 - (f) that an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has occurred, is occurring or is likely to occur,
 - (g) that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement, or 10
 - (h) that information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be concealed or destroyed.
- (4) For the purposes of *subsection (3)* it is immaterial whether a relevant wrongdoing occurred, occurs or would occur in the State or elsewhere and whether the law applying to it is that of the State or that of any other country or territory. 15
 - (5) A matter is not a relevant wrongdoing if it is a matter which it is the function of the worker or the worker's employer to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the employer.
 - (6) A disclosure of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings is not a protected disclosure if it is made by a person to whom the information was disclosed in the course of obtaining legal advice. 20
 - (7) The motivation for making a disclosure is irrelevant to whether or not it is a protected disclosure.
 - (8) In proceedings involving an issue as to whether a disclosure is a protected disclosure it shall be presumed, until the contrary is proved, that it is. 25
 - (9) A disclosure made before the date of the passing of this Act may be a protected disclosure.

Disclosure to employer or other responsible person

- 6. (1) A disclosure is made in accordance with this section if the worker makes it— 30
 - (a) to the worker's employer, or
 - (b) where the worker reasonably believes that the relevant wrongdoing which the disclosure tends to show relates solely or mainly—
 - (i) to the conduct of a person other than the worker's employer, or
 - (ii) to something for which a person other than the worker's employer has legal responsibility, 35
 to that other person.
- (2) A worker who, in accordance with a procedure the use of which by the worker is

authorised by the worker's employer, makes a disclosure to a person other than the employer is to be treated for the purposes of this Act as making the disclosure to the employer.

Disclosure to prescribed person

7. (1) A disclosure is made in accordance with this section if the worker— 5
- (a) makes the disclosure to a person prescribed under *subsection (2)(a)*, and
 - (b) reasonably believes—
 - (i) that the relevant wrongdoing falls within the description of matters in respect of which the person is prescribed under *subsection (2)(b)*, and
 - (ii) that the information disclosed, and any allegation contained in it, are 10 substantially true.
- (2) The Minister may by order—
- (a) prescribe such persons as, by reason of the nature of their responsibilities or functions, appear appropriate to be recipients of disclosures of relevant wrongdoings falling within the description of matters in respect of which they are 15 prescribed, and
 - (b) prescribe in respect of each prescribed person such description of matters as appears appropriate by reason of the nature of the responsibilities or functions of the person.
- (3) Every order under *subsection (2)* shall be laid before each House of the Oireachtas 20 soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done under the order.

Disclosure to Minister

8. A disclosure is made in accordance with this section if— 25
- (a) the worker is or was employed in a public body, and
 - (b) the disclosure is made to a Minister of the Government on whom any function relating to the public body is conferred or imposed by or under any enactment.

Disclosure to legal adviser

9. A disclosure is made in accordance with this section if it is made by the worker in the 30 course of obtaining legal advice from a barrister, solicitor or trade union official.

Disclosure in other cases

10. (1) A disclosure is made in accordance with this section if it is made otherwise than in 35 accordance with *sections 6 to 9* and—
- (a) the worker reasonably believes that the information disclosed, and any allegation

- contained in it, are substantially true,
- (b) the disclosure is not made for personal gain,
 - (c) any one or more of the conditions in *subsection (2)* is met, and
 - (d) in all the circumstances of the case, it is reasonable for the worker to make the disclosure. 5
- (2) The conditions referred to in *subsection (1)(c)* are—
- (a) that, at the time the worker makes the disclosure, the worker reasonably believes that the worker will be subjected to penalisation by the worker’s employer if the worker makes a disclosure in accordance with *section 6, 7 or 8,*
 - (b) that, in a case where no relevant person is prescribed for the purposes of *section 7* in relation to the relevant wrongdoing, the worker reasonably believes that it is likely that evidence relating to the relevant wrongdoing will be concealed or destroyed if the worker makes a disclosure under *section 6,* 10
 - (c) that the worker has previously made a disclosure of substantially the same information— 15
 - (i) in accordance with *section 6,* or
 - (ii) in accordance with *section 7 or 8,*
 and
 - (d) that the relevant wrongdoing is of an exceptionally serious nature.
- (3) In determining for the purposes of *subsection (1)(d)* whether it is reasonable for the worker to make the disclosure regard shall be had, in particular, to— 20
- (a) the identity of the person to whom the disclosure is made,
 - (b) in a case falling within *subsection (2)(a), (b) or (c),* the seriousness of the relevant wrongdoing,
 - (c) in a case falling within *subsection (2)(a), (b) or (c),* whether the relevant wrongdoing is continuing or is likely to occur in the future, 25
 - (d) in a case falling within *subsection (2)(a), (b) or (c),* whether the disclosure is made in breach of a duty of confidentiality owed by the worker’s employer to any other person,
 - (e) in a case falling within *subsection (2)(c),* any action which the employer of the worker or the person to whom the previous disclosure was made has taken or might reasonably be expected to have taken as a result of the previous disclosure, and 30
 - (f) in a case falling within *subsection (2)(c)(i),* whether in making the disclosure to the employer the worker complied with any procedure the use of which by the worker was authorised by the employer. 35
- (4) For the purposes of this section a subsequent disclosure may be regarded as a disclosure of substantially the same information as that disclosed by a previous disclosure as mentioned in *subsection (2)(c)* even though the subsequent disclosure

extends to information about action taken or not taken by any person as a result of the previous disclosure.

- (5) In *subsection (1)(b)* “personal gain” excludes any reward payable under or by virtue of any enactment.

PART 3

5

PROTECTIONS

Protection of employees from dismissal for having made protected disclosure

11. (1) The Unfair Dismissals Act 1977 is amended—

- (a) in section 1 by inserting the following definitions:

“ ‘protected disclosure’ has the meaning given by the *Protected Disclosures Act 2013*;

‘relevant wrongdoing’ has the meaning given by the *Protected Disclosures Act 2013*.”;

- (b) in section 6 by inserting the following paragraph after paragraph (b) of subsection (2):

“(ba) the employee having made a protected disclosure.”;

- (c) in section 6 by inserting the following subsection after subsection (2C):

“(2D) Sections 3 and 4 do not apply to a case falling within paragraph (ba) of subsection (2) and that paragraph applies to a person who would otherwise be excluded from this Act by any of paragraphs (a) to (c) and (f) to (k) of section 2(1).”;

- (d) in section 7 by inserting the following subsection after subsection (1):

“(1A) In relation to a case falling within section 6(2)(ba) the reference in subsection (1)(c)(i) to 104 weeks has effect as if it were a reference to 260 weeks.”;

and

- (e) in section 7 by inserting the following subsection after subsection (2A):

“(2B) Where—

(a) the dismissal of an employee results wholly or mainly from the employee having made a protected disclosure, and

(b) the investigation of the relevant wrongdoing concerned was not the sole or main motivation for making the disclosure,

the amount of compensation that is just and equitable may be up to 25 per cent less than the amount that it would otherwise be.”.

- (2) *Schedule 1* contains provisions for interim relief in cases where a claim is brought for redress for a dismissal which is an unfair dismissal by virtue of section 6(2)(ba)

(inserted by *subsection (1)*) of the Unfair Dismissals Act 1977.

Other protection of employees from penalisation for having made protected disclosure

12. (1) An employer shall not penalise or threaten penalisation against an employee, or cause or permit any other person to penalise or threaten penalisation against an employee, for having made a protected disclosure. 5
- (2) *Subsection (1)* does not apply to the dismissal of an employee to whom section 6(2) (ba) of the Unfair Dismissals Act 1977 applies.
- (3) Schedule 2 shall have effect in relation to an alleged contravention of *subsection (1)*.
- (4) *Subsection (3)* does not apply in relation to the penalisation of an employee if the employee is within paragraph (d) or (e) of section 2(1) of the Unfair Dismissals Act 1977. 10
- (5) Any person who, on examination authorised under *paragraph 3(1)* of *Schedule 2*, wilfully makes any material statement which the person knows to be false or does not believe to be true commits an offence and is liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both. 15
- (6) A person to whom a notice under *paragraph 3(2)* of *Schedule 2* has been given and who refuses or wilfully neglects to attend in accordance with the notice or who, having so attended, refuses to give evidence or refuses or wilfully fails to produce any document to which the notice relates commits an offence and is liable on summary conviction to a class A fine. 20
- (7) A document purporting to be signed by the chairperson or a deputy chairperson of the Labour Court stating that—
- (a) a person named in the document was, by a notice under *paragraph 3(2)* of *Schedule 2*, required to attend before the Labour Court on a day and at a time and place specified in the document, to give evidence or produce a document, or both, and 25
- (b) a sitting of the Labour Court was held on that day and at that time and place, and the person did not attend before the Labour Court pursuant to the notice or, having so attended, refused to give evidence or refused or wilfully failed to produce the document, 30
- shall, in a prosecution of the person for an offence under *subsection (6)*, be evidence of the matters so stated without further proof unless the contrary is shown.
- (8) Summary proceedings for an offence under *subsection (5)* or *(6)* may be brought and prosecuted by the Minister for Jobs, Enterprise and Innovation.
- (9) Where an offence under *subsection (5)* or *(6)* is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, is guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence. 35 40

- (10) Where the affairs of a body corporate are managed by its members, *subsection (9)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Tort action for suffering detriment because of making protected disclosure 5

- 13.** (1) If a person causes detriment to another person because the other person or a third person made a protected disclosure, the person to whom the detriment is caused has a right of action in tort against the person by whom the detriment is caused.
- (2) A person may not both—
- (a) pursue a right of action under *subsection (1)* against a person in respect of a matter, and 10
 - (b) in respect of the same matter make or present against the same person—
 - (i) a claim for redress under the Unfair Dismissals Acts 1977 to 2007,
 - (ii) a complaint under *Schedule 2*,
 - (iii) a complaint under section 114 of the Defence Act 1954 or section 6 of the Ombudsman (Defence Forces) Act 2004, or 15
 - (iv) a claim for redress in accordance with regulations made under section 124A of the Garda Síochána Act 2005.
- (3) In *subsection (1)* “detriment” includes—
- (a) coercion, intimidation or harassment, 20
 - (b) discrimination, disadvantage or adverse treatment in relation to employment (or prospective employment),
 - (c) injury, damage or loss, and
 - (d) threat of reprisal.

Immunity from civil liability for making protected disclosure 25

- 14.** (1) No cause of action in civil proceedings, other than a defamation action (within the meaning of the Defamation Act 2009), shall lie against a person in respect of the making of a protected disclosure.
- (2) The Defamation Act 2009 is amended in Part 1 of Schedule 1 by inserting the following paragraph after paragraph 13: 30
- “13A. A protected disclosure within the meaning of the *Protected Disclosures Act 2013*.”.

Making protected disclosure not to constitute criminal offence

- 15.** In a prosecution of a person for any offence prohibiting or restricting the disclosure of information it is a defence for the person to show that, at the time of the alleged offence, the disclosure was, or was reasonably believed by the person to be, a protected disclosure. 35

Protection of identity of maker of protected disclosure

16. (1) A person to whom a protected disclosure is made, and any person to whom a protected disclosure is referred in the performance of that person's duties, shall take all reasonable steps to avoid disclosing to another person any information that might identify the person by whom the protected disclosure was made. 5
- (2) *Subsection (1)* does not apply if—
- (a) the person to whom the protected disclosure was made or referred reasonably believes that the person by whom the protected disclosure was made does not object to the disclosure of any such information,
 - (b) the person to whom the protected disclosure was made or referred reasonably believes that disclosing any such information is necessary for— 10
 - (i) the effective investigation of the relevant wrongdoing concerned,
 - (ii) the prevention of serious risk to the security of the State, public health, public safety or the environment, or
 - (iii) the prevention of crime or prosecution of a criminal offence, 15
- or
- (c) the disclosure is otherwise necessary in the public interest or is required by law.
- (3) A failure to comply with *subsection (1)* is actionable by the person by whom the protected disclosure was made if that person suffers any loss by reason of the failure to comply. 20

PART 4

SPECIAL CASES

Law enforcement, etc.

17. (1) This section applies to a disclosure of relevant information, other than a disclosure of relevant information to which *section 18* applies, that might reasonably be expected to facilitate the commission of an offence or to prejudice or impair— 25
- (a) the prevention, detection or investigation of offences, the apprehension or prosecution of offenders or the effectiveness of lawful methods, systems, plans or procedures employed for any of those matters,
 - (b) the enforcement or administration of, or compliance with, any law, 30
 - (c) lawful methods, systems, plans or procedures employed for ensuring the safety of the public or the safety or security of persons or property,
 - (d) the fairness of proceedings before a court or tribunal,
 - (e) the security of a relevant institution, or
 - (f) the security of any system of communications of the Garda Síochána, the Defence Forces or a relevant institution. 35

- (2) If a person has been prescribed in relation to the relevant information under *section 7*, the disclosure is not a protected disclosure unless—
- (a) it is made in accordance with *section 6(1)(a)*, 7 or 9, or
 - (b) if it is taxpayer information, it is made in accordance with *section 10* to the Comptroller and Auditor General, or 5
 - (c) in any other case, it is made in accordance with *section 10*, the conditions in *subsection (3)* are met and it is made to a member of Dáil Éireann or Seanad Éireann.
- (3) The conditions referred to in *subsection (2)(c)* are—
- (a) that the person by whom the disclosure was made has made a disclosure of substantially the same relevant information in accordance with *section 7*, 10
 - (b) that a reasonable period for taking action in relation to that disclosure has passed, and
 - (c) that, having notified the person prescribed under *section 7* in relation to the relevant information, the person by whom that disclosure was made reasonably believes that no action has been taken in relation to that disclosure or that any action so taken was inadequate. 15
- (4) If no person has been prescribed under *section 7* in relation to the relevant information, the disclosure is not a protected disclosure unless—
- (a) it is made in accordance with *section 6(1)(a)* or 9, or 20
 - (b) it is made in accordance with *section 10*, the condition in *subsection (5)* is met and it is made to a member of Dáil Éireann or Seanad Éireann.
- (5) The condition referred to in *subsection (4)(b)* is that the disclosure is to the effect that—
- (a) an investigation undertaken for the purpose of the enforcement of any law, or anything done in the course of such an investigation, or 25
 - (b) anything done for the purpose of the prevention or detection of any offence, the apprehension of an offender or the prosecution of an offence,
- is not authorised by law or contravenes any law.
- (6) Procedures established by Standing Orders of Dáil Éireann or Seanad Éireann may regulate how members of Dáil Éireann or Seanad Éireann are to deal with relevant information disclosed to them under *subsection (2)(c)* or *(4)(b)*. 30
- (7) In this section—
- “relevant institution” means—
- (a) a place to which the Prisons Acts 1826 to 2007 apply, 35
 - (b) a military prison or detention barrack within the meaning in each case of the Defence Act 1954,
 - (c) St. Patrick’s Institution,

(d) a children detention school within the meaning of section 3 of the Children Act 2001, or

(e) a remand centre designated under section 88 of the Children Act 2001;

“taxpayer information” has the same meaning as in section 851A of the Taxes Consolidation Act 1997.

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Security, defence, international relations and intelligence

18. (1) This section applies to a disclosure of information if it might reasonably be expected—

(a) to affect adversely—

(i) the security of the State,

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(ii) the defence of the State, or

(iii) the international relations of the State,

or

(b) to reveal, or lead to the revelation of, the identity of a person who has given information in confidence to a public body in relation to the enforcement or administration of the law or any other source of such information given in confidence.

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(2) Without prejudice to the generality of *subsection (1)* this section applies to a disclosure of information—

(a) which was obtained or prepared for the purpose of intelligence in respect of the security or defence of the State,

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(b) which relates to—

(i) the tactics, strategy or operations of the Defence Forces in or outside the State, or

(ii) the detection, prevention or suppression of activities calculated or tending to undermine the public order or the authority of the State (which expression has the same meaning as in section 2 of the Offences Against the State Act 1939),

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(c) which consists of a communication between a Minister of the Government and a diplomatic mission or consular post in the State or a communication between the Government or a person acting on behalf of the Government and another government or a person acting on behalf of another government,

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(d) which consists of a communication between a Minister of the Government and a diplomatic mission or consular post of the State,

(e) which was communicated in confidence to any person in or outside the State from any person in or outside the State, relates to a matter referred to in *subsection (1)* or to the protection of human rights and was expressed by the latter person to be confidential or to be communicated in confidence,

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(f) which was communicated in confidence from, to or within an international

organisation of states or a subsidiary organ of such an organisation or an institution or body of the European Union or relates to negotiations between the State and such an organisation, organ, institution or body or within or in relation to such an organisation, organ, institution or body, or

- (g) which is contained in a record of an organisation, organ, institution or body referred to in *paragraph (f)* and the disclosure of which is prohibited by the organisation, organ, institution or body. 5
- (3) A disclosure of information to which this section applies is not a protected disclosure unless—
- (a) it is made in accordance with *section 6(1)(a), 8 or 9*, or 10
- (b) it is made in accordance with *section 10* to the Disclosures Recipient.
- (4) There shall be an office of Disclosures Recipient and *Schedule 3* shall have effect in relation to that office.

Amendment of Garda Síochána Act 2005

19. The Garda Síochána Act 2005 is amended by inserting the following section after section 124: 15

“Regulations relating to protected disclosures

124A. The Minister shall, after consulting with the Garda Commissioner, the Ombudsman Commission and the Inspectorate, and with the approval of the Government, make, in relation to protected disclosures (within the meaning of the *Protected Disclosures Act 2013*) by members of the Garda Síochána, regulations providing procedures— 20

- (a) for the making of such protected disclosures, and
- (b) to secure redress where a person has penalised or threatened penalisation (within the meaning of that Act) against, or caused or permitted any other person to penalise or threaten penalisation against, a member for having made such a protected disclosure.”. 25

Amendment of Ombudsman (Defence Forces) Act 2004

20. (1) Section 4 of the Ombudsman (Defence Forces) Act 2004 is amended by inserting the following subsection after subsection (3): 30

“(3A) If the complaint is that a person has penalised or threatened penalisation (within the meaning of the *Protected Disclosures Act 2013*) against, or caused or permitted any other person to penalise or threaten penalisation against, the complainant for having made a protected disclosure (within the meaning of that Act), the Ombudsman— 35

- (a) is not prevented from investigating any action that is the subject of the complaint, and
- (b) may not decide not to carry out, and may not decide to discontinue, an investigation into any such action, 40

because no complaint has been made under section 114 of the Act of 1954.”.

- (2) The amendment made by *subsection (1)* does not affect any right to complain, under section 114 of the Defence Act 1954, that a person has penalised or threatened penalisation against, or caused or permitted any other person to penalise or threaten penalisation against, the complainant for having made a protected disclosure or to submit any grievance in relation to such a complaint in accordance with regulations under subsection (4) of the said section 114. 5

PART 5

MISCELLANEOUS AND SUPPLEMENTARY

10

Internal procedures for protected disclosures made by workers employed by public bodies

21. (1) Every public body shall establish and maintain procedures for dealing with protected disclosures made by workers who are or were employed by the public body.
- (2) The public body shall provide to workers employed by the body written information relating to the procedures established and maintained under *subsection (1)*. 15

No contracting-out of protections

22. Any provision in an agreement is void in so far as it purports—
- (a) to prohibit or restrict the making of protected disclosures,
 - (b) to exclude or limit the operation of any provision of this Act,
 - (c) to preclude a person from bringing any proceedings under or by virtue of this Act, or 20
 - (d) to preclude a person from bringing proceedings for breach of contract in respect of anything done in consequence of the making of a protected disclosure.

Protection of disclosure provisions in other enactments

23. (1) The Acts specified in *column (2)* of *Part 1* of *Schedule 4* are amended to the extent specified in *column (4)* of that Schedule. 25
- (2) The statutory instrument specified in *column (2)* of *Part 2* of *Schedule 4* is amended to the extent specified in *column (4)* of that Schedule.

SCHEDULE 1

Section 11.

INTERIM RELIEF PENDING DETERMINATION OF CLAIM FOR UNFAIR DISMISSAL

Application for interim relief.

1. (1) An employee who claims to have been dismissed by the employee's employer wholly or mainly for having made a protected disclosure may apply to the Circuit Court for interim relief. 5
- (2) The Circuit Court shall not entertain an application for interim relief unless it is presented to the Court before the end of the period of 7 days immediately following the date of dismissal (whether before, on or after that date) or such longer period as the Court may allow. 10
- (3) The Court shall determine the application for interim relief as soon as practicable.
- (4) The employee shall give the employer prior written notice of intention to make the application for interim relief. 15
- (5) The Court shall not exercise any power it has of postponing the hearing of an application for interim relief except where it is satisfied that special circumstances exist which justify it in doing so.

Procedure on hearing of application and making of order.

2. (1) This paragraph applies where, on hearing an employee's application for interim relief, it appears to the Court that it is likely that there are substantial grounds for contending that dismissal results wholly or mainly from the employee having made a protected disclosure. 20
- (2) The Court shall announce its findings and explain to both parties (if present)—
 - (a) what powers the Court may exercise on the application, and 25
 - (b) in what circumstances it will exercise them.
- (3) The Court shall ask the employer (if present) whether the employer is willing, pending the determination or settlement of the claim—
 - (a) to reinstate the employee (that is, to treat the employee in all respects as if the employee had not been dismissed), or 30
 - (b) if not, to re-engage the employee in another position on terms and conditions not less favourable than those which would have been applicable to the employee if the employee had not been dismissed.
- (4) For the purposes of *subparagraph (3)(b)* “terms and conditions not less favourable than those which would have been applicable to the employee if the employee had not been dismissed” means, as regards seniority, pension rights and other similar rights, that the period before the dismissal should be regarded as continuous with the employee's employment following the dismissal. 35
- (5) If the employer states a willingness to reinstate the employee, the Court shall make an order to that effect. 40
- (6) If the employer—

- (a) states that a willingness to re-engage the employee in another position, and
 - (b) specifies the terms and conditions on which the employer is willing to do so,
- the Court shall ask the employee whether he or she is willing to accept the position on those terms and conditions.
- (7) If the employee is willing to accept the position on those terms and conditions, 5
the Court shall make an order to that effect.
 - (8) If the employee is not willing to accept the position on those terms and conditions—
 - (a) where the Court is of the opinion that the refusal is reasonable, the Court shall make an order for the continuation of the employee’s contract of 10
employment, and
 - (b) otherwise, the Court shall make no order.
 - (9) If on the hearing of an application for interim relief the employer—
 - (a) fails to attend before the Court, or
 - (b) states an unwillingness either to reinstate or to re-engage the employee as 15
mentioned in *subparagraph (3)*,

the Court shall make an order for the continuation of the employee’s contract of employment.

Order for continuation of contract of employment.

- 3. (1) An order under *paragraph 2* for the continuation of an employee’s contract of 20
employment is an order that the contract of employment continue in force—
 - (a) for the purposes of pay or any other benefit derived from the employment, seniority, pension rights and other similar matters, and
 - (b) for the purposes of determining for any purpose the period for which the 25
employee has been continuously employed,

from the date of its termination (whether before or after the making of the order) until the determination or settlement of the claim.
- (2) Where the Court makes such an order it shall specify in the order the amount which is to be paid by the employer to the employee by way of pay in respect of 30
each normal pay period, or part of any such period, falling between the date of dismissal and the determination or settlement of the claim.
- (3) Subject to the following provisions, the amount so specified shall be that which the employee could reasonably have been expected to earn during that period, or part, and shall be paid—
 - (a) in the case of a payment for any such period falling wholly or partly after the 35
making of the order, on the normal pay day for that period, and
 - (b) in the case of a payment for any past period, within such time as may be specified in the order.
- (4) If an amount is payable in respect only of part of a normal pay period, the amount

shall be calculated by reference to the whole period and reduced proportionately.

- (5) Any payment made to an employee by an employer under his or her contract of employment, or by way of damages for breach of that contract, in respect of a normal pay period, or part of any such period, goes towards discharging the employer's liability in respect of that period under *subparagraph (2)*; and, conversely, any payment under that subparagraph in respect of a period goes towards discharging any liability of the employer under, or in respect of breach of, the terms and conditions of employment or contract of employment in respect of that period. 5
- (6) If an employee, on or after being dismissed, receives a lump sum which, or part of which, is in lieu of wages but is not referable to any normal pay period, the Court shall take the payment into account in determining the amount of pay to be payable in pursuance of any such order. 10
- (7) For the purposes of this paragraph, the amount which an employee could reasonably have been expected to earn, the employee's normal pay period and the normal pay day for each such period shall be determined as if the employee had not been dismissed. 15

Application for variation or revocation of order.

4. (1) At any time between—
- (a) the making of an order under *paragraph 2*, and 20
 - (b) the determination or settlement of the claim,
- the employer or the employee may apply to the Court for the revocation or variation of the order on the ground of a relevant change of circumstances since the making of the order.
- (2) *Paragraphs 1 and 2* apply in relation to such an application as in relation to an original application for interim relief except that, in the case of an application by the employer, *paragraph 1(4)* has effect with the substitution of a reference to the employee for the reference to the employer and of a reference to the employer for the reference to the employee. 25

Consequence of failure to comply with order. 30

5. (1) If, on the application of an employee, the Court is satisfied that the employer has not complied with the terms of an order for the reinstatement or re-engagement of the employee under *paragraph 2*, the Court shall—
- (a) make an order for the continuation of the employee's contract of employment, and 35
 - (b) order the employer to pay compensation to the employee.
- (2) Compensation under *subparagraph (1)(b)* shall be of such amount as the Court considers just and equitable in all the circumstances having regard—
- (a) to the infringement of the employee's right to be reinstated or re-engaged in pursuance of the order, and 40
 - (b) to any loss suffered by the employee in consequence of the non-compliance.

- (3) *Paragraph 3* applies to an order under *subparagraph (1)(a)* as in relation to an order under *paragraph 2*.
- (4) If on the application of an employee the Court is satisfied that the employer has not complied with the terms of an order under *subparagraph (1)(a)* for the continuation of the employee's contract of employment *subparagraph (5)* or *(6)* 5 applies.
- (5) Where the non-compliance consists of a failure to pay an amount by way of pay specified in the order, the Court shall determine the amount owed by the employer on the date of the determination.
- (6) In any other case, the Court shall order the employer to pay the employee such 10 compensation as the Court considers just and equitable in all the circumstances having regard to any loss suffered by the employee in consequence of the non-compliance.
- (7) Any sum awarded to the employee on the determination of the claim that he or she has been unfairly dismissed shall be specified separately from any amount 15 determined under *subparagraph (5)*.

SCHEDULE 2

Section 12.

REDRESS FOR CONTRAVENTION OF SECTION 12(1)

Complaints to rights commissioner.

1. (1) Where an employee has made a protected disclosure— 5
 - (a) the employee (or, in the case of an employee who has not reached the age of 18 years, the employee's parent or guardian with the consent of the employee), or
 - (b) with the consent of the employee, any trade union of which the employee is a member, 10may present a complaint to a rights commissioner that the employee's employer has contravened *section 12(1)* in relation to the employee.
- (2) Where a complaint under *subparagraph (1)* is made, the rights commissioner shall—
 - (a) give the parties an opportunity to be heard by the commissioner and to present to the commissioner any evidence relevant to the complaint, 15
 - (b) give a decision in writing in relation to it, and
 - (c) communicate the decision to the parties.
- (3) A decision of a rights commissioner under *subparagraph (2)* shall do one or more of the following: 20
 - (a) declare that the complaint was or was not well founded;
 - (b) require the employer to take a specified course of action;
 - (c) require the employer to pay compensation of such amount (if any) as is just and equitable having regard to all the circumstances, but not exceeding 260 weeks remuneration in respect of the employee's employment calculated in accordance with regulations under section 17 of the Unfair Dismissals Act 1977. 25
- (4) In determining the amount of compensation that is just and equitable in a case in which the investigation of the relevant wrongdoing concerned was not the sole or main motivation for making the disclosure, the amount that would be just and equitable may be up to 25 per cent less than it would otherwise be. 30
- (5) The references in *clauses (b) and (c) of subparagraph (3)* to the employer shall be construed, in a case where ownership of the business of the employer changes after the contravention to which the complaint relates occurred, as references to the person who, by virtue of the change, becomes entitled to such ownership. 35
- (6) Subject to *subparagraphs (7) and (8)*, a rights commissioner shall not entertain a complaint under this paragraph if it is presented after the end of the period of 6 months beginning on the date of the contravention to which the complaint relates.
- (7) Notwithstanding *subparagraph (6)*, a rights commissioner may entertain a complaint under this paragraph presented after the end of the period referred to in *subparagraph (6)*, but not later than 6 months after the end of that period, if 40

satisfied that the failure to present the complaint within that period was due to exceptional circumstances.

- (8) Where a delay by an employee in presenting a complaint under this paragraph is due to any misrepresentation by the employer, *subparagraph (6)* shall be construed as if the reference to the date of the contravention were a reference to the date on which the misrepresentation came to the employee's notice. 5
- (9) A complaint shall be presented by giving notice of it in writing to a rights commissioner and the notice shall contain such particulars and be in such form as may be specified from time to time by the Minister for Jobs, Enterprise and Innovation. 10
- (10) A copy of a notice under *subparagraph (9)* shall be given to the other party concerned by the rights commissioner.
- (11) Proceedings under this paragraph before a rights commissioner shall be conducted otherwise than in public.
- (12) A rights commissioner shall furnish the Labour Court with a copy of each decision given by the commissioner under *subparagraph (2)*. 15

Appeal from decision of rights commissioner.

2. (1) A party concerned may appeal to the Labour Court from a decision of a rights commissioner under *paragraph 1(2)* and, if the party does so, the Labour Court shall— 20
- (a) give the parties an opportunity to be heard by it and to present to it any evidence relevant to the appeal,
- (b) make a determination in writing in relation to the appeal affirming, varying or setting aside the decision, and
- (c) communicate the determination to the parties. 25
- (2) An appeal under this paragraph shall be initiated by the party concerned giving, within 6 weeks (or such greater period as the Labour Court may determine in the particular circumstances) from the date on which the decision to which it relates was communicated to the party, a notice in writing to the Labour Court containing such particulars as are determined by the Labour Court under *clause (e)*, and (in so far as it relates to *clause (e)*) *clause (f)*, of *subparagraph (4)* and stating the intention of the party concerned to appeal against the decision. 30
- (3) A copy of a notice under *subparagraph (2)* shall be given by the Labour Court to any other party concerned as soon as practicable after the receipt of the notice by the Labour Court. 35
- (4) The Labour Court shall determine the following matters and the procedures to be followed in relation to them:
- (a) the procedure in relation to all matters concerning the initiation and the hearing by the Labour Court of appeals under this paragraph;
- (b) the times and places of hearings of such appeals; 40
- (c) the representation of the parties to such appeals;

- (d) the publication and notification of determinations of the Labour Court;
- (e) the particulars to be contained in a notice under *subparagraph (2)*;
- (f) any matters consequential on, or incidental to, any of the matters referred to in *clauses (a) to (e)*.

- (5) The Labour Court may refer a question of law arising in proceedings before it under this paragraph to the High Court for its determination and the determination of the High Court shall be final and conclusive. 5
- (6) A party to proceedings before the Labour Court under this paragraph may appeal to the High Court from a determination of the Labour Court on a point of law and the determination of the High Court shall be final and conclusive. 10

Paragraphs 1 and 2 : supplementary provisions.

- 3. (1) The Labour Court shall, on the hearing of any appeal referred to it under *paragraph 2*, have power to take evidence on oath or on affirmation and for that purpose may cause persons attending as witnesses at that hearing to swear an oath or make an affirmation. 15
- (2) The Labour Court may, by giving notice in that behalf in writing to any person, require such person to attend at such time and place as is specified in the notice and—
 - (a) to give evidence in relation to any matter appealed to the Labour Court under *paragraph 2*, or 20
 - (b) to produce any document specified in the notice relating to the matter in the person’s possession or power.
- (3) A witness at a hearing of an appeal before the Labour Court has the same privileges and immunities as a witness before the High Court.
- (4) Where— 25
 - (a) a decision of a rights commissioner in relation to a complaint under this Schedule has not been carried out in accordance with its terms, and
 - (b) the time for bringing an appeal against the decision has expired and no such appeal has been brought or, if such an appeal has been brought, it has been abandoned, 30

the employee concerned (or, in the case of an employee who has not reached the age of 18 years, the employee’s parent or guardian with the consent of the employee) or, with the consent of the employee, any trade union of which the employee is a member, may bring the complaint before the Labour Court and the Labour Court shall, without hearing the employer concerned or any evidence (other than in relation to the matters mentioned in *clauses (a) and (b)*), make a determination to the same effect as the decision. 35
- (5) The bringing of a complaint before the Labour Court under *subparagraph (4)* shall be effected by giving to the Labour Court a written notice containing such particulars (if any) as may be determined by the Labour Court. 40
- (6) The Labour Court shall publish, in a manner it considers appropriate, particulars

of any determination made by it under any of *clauses (a) to (f) of subparagraph (4) of paragraph 2* (not being a determination as respects a particular appeal under that paragraph) and *subparagraph (5)*.

Enforcement of determinations of Labour Court.

4. (1) If an employer fails to carry out in accordance with its terms a determination of the Labour Court in relation to a complaint under *paragraph 1* within the period of 28 days beginning on the date on which the determination is communicated to the parties, the Circuit Court shall, on application made to it in that behalf by—
- (a) the employee concerned (or, in the case of an employee who has not reached the age of 18 years, the employee's parent or guardian with the employee's consent), or
 - (b) with the consent of the employee, any trade union of which the employee is a member,
- without hearing the employer or any evidence (other than in relation to the failure), make an order directing the employer to carry out the determination in accordance with its terms.
- (2) The reference in *subparagraph (1)* to a determination of the Labour Court is a reference to a determination in relation to which, at the end of the period for bringing an appeal against it, no such appeal has been brought or, if such an appeal has been brought, it has been abandoned, and the reference in that subparagraph to the date on which the determination is communicated to the parties shall, in a case where an appeal is abandoned, be read as a reference to the date of the abandonment.
- (3) In an order under this paragraph providing for the payment of compensation, the Circuit Court may, if in all the circumstances it considers it appropriate to do so, direct the employer concerned to pay interest on the compensation (at the rate per annum standing specified for the time being in section 26 of the Debtors (Ireland) Act 1840) for each day or part of a day falling within the period beginning 28 days after the day on which the determination of the Labour Court is communicated to the parties and ending on the day immediately before the day on which the order of the Circuit Court is made.
- (4) An application under this paragraph to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the employer concerned ordinarily resides or carries on any profession, trade, business or occupation.

Provisions relating to winding up and bankruptcy.

5. (1) There shall be included among the debts which, under section 285 of the Companies Act 1963 are, in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, all compensation payable by virtue of a decision under *paragraph 1(2)(b)* or a determination under *paragraph 2(1)(b)* by the company to an employee, and that Act shall have effect accordingly.
- (2) There shall be included among the debts which, under section 81 of the Bankruptcy Act 1988 are, in the distribution of the property of a bankrupt or

arranging debtor, to be paid in priority to all other debts, all compensation payable by virtue of a decision under *paragraph 1(2)(b)* or a determination under *paragraph 2(1)(b)* by the bankrupt or arranging debtor to an employee, and that Act shall have effect accordingly.

- (3) Formal proof of the debts to which priority is given under *subparagraph (1)* or *(2)* shall not be required except in cases where it may otherwise be provided under the Companies Act 1963 or the Bankruptcy Act 1988. 5

Amendment of Protection of Employees (Employers' Insolvency) Act 1984.

6. Section 6 of the Protection of Employees (Employers' Insolvency) Act 1984 is amended— 10

(a) in subsection (2)(a)—

(i) in subparagraph (xxix) by deleting “and” after “that Act,”,

(ii) in subparagraph (xxx) by substituting “that Schedule, and” for “that Schedule.”, and

(iii) by inserting the following subparagraph after subparagraph (xxx): 15

“(xxx) any amount which an employer is required to pay by virtue of a decision of a rights commissioner under *paragraph 1(2)(b)* of *Schedule 2* to the *Protected Disclosures Act 2013* or a determination by the Labour Court under *paragraph 2(1)(b)* of that Schedule.”, 20

(b) in subsection (2)(b) by substituting “, (xxx) or (xxx)” for “or (xxx)”,

(c) in subsection (2)(c) by substituting “, (xxx) or (xxx)” for “or (xxx)”, and

(d) in subsection (9), in the definition of “relevant date”, by substituting “, (xxx) or (xxx)” for “or (xxx)”.

SCHEDULE 3

Section 18.

DISCLOSURES RECIPIENT

Appointment.

1. The Taoiseach shall appoint as the Disclosures Recipient a person who is a judge or retired judge of the High Court. 5

Term of office.

2. (1) The Disclosures Recipient shall hold office for an initial term of 5 years and is eligible for re-appointment for one further term of 5 years.
(2) The Disclosures Recipient may at any time resign by letter addressed to the Taoiseach, and the resignation takes effect on the date the Taoiseach receives the letter. 10
(3) The Taoiseach may remove the Disclosures Recipient from office, but only for stated misbehaviour or for incapacity.
(4) A person ceases to be the Disclosures Recipient on being— 15
 - (a) nominated as a member of Seanad Éireann,
 - (b) elected as a member of either House of the Oireachtas or of the European Parliament,
 - (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to the European Parliament to fill a vacancy, or 20
 - (d) becoming a member of a local authority.

Terms and conditions.

3. The terms and conditions (including terms relating to allowances for expenses and, in the case of a person who is a retired judge of the High Court, terms relating to remuneration) on which the Disclosures Recipient holds office are such as may be determined at the time of appointment (or reappointment) by the Taoiseach after consultation with the Minister for Public Expenditure and Reform. 25

Administration and support services.

4. The Minister shall provide such administration and support services to the Disclosures Recipient as are necessary for the performance of his or her functions. 30

Functions.

5. Where a protected disclosure is made to the Disclosures Recipient under *section 18*, the Disclosures Recipient shall consider the relevant information and—
 - (a) if he or she considers that the disclosure of relevant information is not one to which *section 18* applies, shall give notice to the person by whom the disclosure was made stating that, and 35
 - (b) otherwise, shall make a report—
 - (i) referring the relevant information for consideration by the holder of such

public office, or such public body, as appears to the Disclosures Recipient to be the most appropriate to consider the relevant information, and

- (ii) including any such recommendations for the taking of action in relation to the relevant information as the Disclosures Recipient may consider appropriate. 5

Reports.

6. No later than 31 March in each year the Disclosures Recipient shall submit to the Taoiseach a report on his or her activities in the immediately preceding year.

SCHEDULE 4

Section 23.

AMENDMENTS

PART 1

Section 23(1). 5

AMENDMENT OF ACTS

Item (1)	Short title, number and year (2)	Provision affected (3)	Amendment (4)	
1	Labour Services Act 1987 (No. 15 of 1987)	Section 13A Section 13B Section 13C	<p>After subsection (3) insert— “(4) This section does not apply to a communication that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”</p> <p>After subsection (1) insert— “(1A) Subsection (1) does not apply to the making of a complaint that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”</p> <p>After subsection (1) insert— “(1A) This section does not apply to the making of a statement that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”</p>	10 15 20 25
2	Protections for Persons Reporting Child Abuse Act 1998 (No. 49 of 1998)	Section 3 Section 4 Section 5	<p>After subsection (2) insert— “(3) This section does not apply to a communication that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”</p> <p>After subsection (1) insert— “(1A) Subsection (1) does not apply to a communication that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”</p> <p>After subsection (1) insert— “(1A) This section does not apply to the making of a statement that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”</p>	30 35 40 45

Item (1)	Short title, number and year (2)	Provision affected (3)	Amendment (4)
3	Prevention of Corruption (Amendment) Act 2001 (No. 27 of 2001)	Section 8A	<p>(a) After subsection (2) insert—</p> <p>“(2A) Subsection (1) does not apply to a communication, or furnishing of information, that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”.</p> <p>(b) After subsection (5) insert—</p> <p>“(5A) Subsection (5) does not apply to a communication, or furnishing of information, that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”.</p>
4	Standards in Public Office Act 2001 (No. 31 of 2001)	Section 5	<p>After subsection (2) insert—</p> <p>“(2A) Subsection (1) does not apply to the making of a complaint, or the furnishing of information, that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”.</p>
5	Competition Act 2002 (No. 14 of 2002)	Section 50	<p>(a) After subsection (2) insert—</p> <p>“(2A) Subsection (1) does not apply to a communication that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”.</p> <p>(b) After subsection (3) insert—</p> <p>“(3A) Subsection (3)</p>

Item (1)	Short title, number and year (2)	Provision affected (3)	Amendment (4)	
			<p>does not apply to a communication that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”.</p> <p>(c) After subsection (5) insert—</p> <p>“(5A) Subsection (5) does not apply to the making of a statement that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p>
6	Communications Regulation Act 2002 (No. 20 of 2002)	<p>Section 24A</p> <p>Section 24B</p> <p>Section 24C</p>	<p>After subsection (2) insert—</p> <p>“(2A) Subsection (1) does not apply where the disclosure is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”.</p> <p>After subsection (1) insert—</p> <p>“(1A) Subsection (1) does not apply where the disclosure is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”.</p> <p>Renumber as subsection (1) and after that subsection insert—</p> <p>“(2) Subsection (1) does not apply where the disclosure is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i>.”.</p>	<p>25</p> <p>30</p> <p>35</p> <p>40</p>
7	Health Act 2004 (No. 42 of 2004)	Section 55L	<p>After subsection (3) insert—</p> <p>“(4) This section does not apply where the protected disclosure is a protected disclosure within the</p>	45

Item (1)	Short title, number and year (2)	Provision affected (3)	Amendment (4)	
			“(5A) Subsection (5) does not apply to the making of a statement that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	5 10
10	Chemicals Act 2008 (No. 13 of 2008)	Section 25 Section 26	Renumber as subsection (1) and after that subsection insert— “(2) Subsection (1) does not apply to a communication that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”. After subsection (1) insert— “(1A) Subsection (1) does not apply to a communication that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	15 20 25
11	Charities Act 2009 (No. 6 of 2009)	Section 61 Section 62	Renumber as subsection (1) and after that subsection insert— “(2) Subsection (1) does not apply to a communication that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”. After subsection (1) insert— “(1A) Subsection (1) does not apply to a communication that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	30 35
12	National Asset Management Agency Act 2009 (No. 34 of 2009)	Section 222	After subsection (3) insert— “(4) This section does not apply to a communication that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	40 45

Item (1)	Short title, number and year (2)	Provision affected (3)	Amendment (4)	
		Section 223	After subsection (3) insert—	
			“(3A) Subsection (3) does not apply to the making of a complaint that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	5
		Section 224	After subsection (1) insert—	10
			“(1A) Subsection (1) does not apply to the making of a statement that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	15
13	Inland Fisheries Act 2010 (No. 10 of 2010)	Section 37	After subsection (3) insert—	
			“(4) This section does not apply to a communication that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	20
		Section 38	After subsection (1) insert—	
			“(1A) Subsection (1) does not apply to the making of a complaint that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	25
		Section 39	After subsection (1) insert—	
			“(1A) This section does not apply to the making of a statement that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	30
14	Criminal Justice Act 2011 (No. 22 of 2011)	Section 20	After subsection (1) insert—	
			“(1A) Subsection (1) does not apply to the making of a disclosure that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	35
		Section 21	After subsection (1) insert—	40
			“(1A) Subsection (1) does not apply to the making of a disclosure that is a protected disclosure within the meaning of the <i>Protected</i>	

Item (1)	Short title, number and year (2)	Provision affected (3)	Amendment (4)
			<i>Disclosures Act 2013.</i>
15	Property Services (Regulation) Act 2011 (No. 40 of 2011)	Section 67	<p>(a) After subsection (2) insert— 5 “(2A) Subsection (1) does not apply to a communication, or furnishing of information, that 10 is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013.</i>” 15</p> <p>(b) After subsection (3) insert— “(3A) Subsection (3) does not apply to a communication 20 that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013.</i>” 25</p> <p>(c) After subsection (5) insert— “(5A) Subsection (5) does not apply to a communication, or furnishing of information, that is a protected disclosure within the meaning of 30 the <i>Protected Disclosures Act 2013.</i>” 35</p>
16	Protection of Employees (Temporary Agency Work) Act 2012 (No. 13 of 2012)	Section 21 Section 22	<p>Renumber as subsection (1) and after that subsection insert— 40 “(2) Subsection (1) does not apply to a communication that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013.</i>” 45</p> <p>After subsection (1) insert—</p>

Item (1)	Short title, number and year (2)	Provision affected (3)	Amendment (4)	
		Section 23	“(1A) This section does not apply to the making of a statement that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	5
			After subsection (1) insert—	
		Section 24	“(1A) Subsection (1) does not apply to the making of a complaint that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	10
			After subsection (1) insert—	15
			“(1A) Subsection (1) does not apply to the making of a complaint that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	20
17	Central Bank (Supervision and Enforcement) Act 2013 (No. 26 of 2013)	Section 38	(a) After subsection (1) insert— “(1A) Subsection (1) does not apply to a disclosure that is a protected disclosure within the meaning of the <i>Protected Disclosures Act 2013</i> .”.	25
			(b) In subsection (4)(a), after “disclosures” insert “and disclosures which would be protected disclosures but for subsection (1A)”.	30
				35

PART 2

Section 23(2).

AMENDMENT OF STATUTORY INSTRUMENT

Item (1)	Citation, number and year (2)	Provision affected (3)	Amendment (4)	
1	European Communities (Occurrence	Regulation 5	After paragraph (3) insert— “(4) Paragraph (3)(b) does not apply where the making of the	40

An Bille um Nochtadh Cosanta, 2013

BILLE

(mar a ritheadh ag Seanad Éireann)

dá ngairtear

Acht do dhéanamh socrú maidir le, agus i dtaca le, daoine a chosaint ar ghníomh a dhéanamh ina n-aghaidh i leith nochtadh áirithe a dhéanamh ar mhaithe le leas an phobail agus maidir le críocha comhghaolmhara.

*Ritheadh ag Seanad Éireann,
20 Samhain, 2013*

Protected Disclosures Bill 2013

BILL

(as passed by Seanad Éireann)

entitled

An Act to make provision for and in connection with the protection of persons from the taking of action against them in respect of the making of certain disclosures in the public interest and for connected purposes.

*Passed by Seanad Éireann,
20th November, 2013*

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2.
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
no trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€4.57

ISBN 978-1-4468-0549-7



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