SEANAD ÉIREANN

AN BILLE UM NOCHTADH COSANTA, 2013
[BILLE SEANAID ARNA LEASÚ AG AN DÁIL]

PROTECTED DISCLOSURES BILL 2013
[SEANAD BILL AMENDED BY THE DÁIL]

Leasuithe a rinne Dáil
Amendments made by the Dáil

[The page and line references in this list of amendments
are to the text of the Bill as passed by Seanad Éireann]

SECTION 2

1. In page 5, line 19, “not later than the end of the period of 5 years” deleted and “not later than the end of the period of 3 years” substituted.

SECTION 3

2. In page 6, line 5 deleted and the following substituted:

““employee” has the meaning given by section 1 of the Unfair Dismissals Act 1977 and includes an individual who is deemed to be an employee by virtue of subsection (2)(a)#;”.

[This is a reference to the subsection inserted by Amendment 6]

3. In page 6, lines 6 to 19 deleted and the following substituted:

““employer”, in relation to a worker, means, subject to subsection (2)(c)—

(a) in the case of an individual who is a worker by virtue of paragraph (a)# of the definition of that term, the person with whom the worker entered into, or for whom the worker works or worked under, the contract of employment,

(b) in the case of an individual who is a worker by virtue of paragraph (b)# of the definition of that term, the person with whom the worker entered into, or works or worked under, the contract,

(c) in the case of an individual who is a worker by virtue of paragraph (c) of the definition of that term—

(i) the person for whom the worker works or worked, or

(ii) the person by whom the individual is or was introduced or supplied to do the work,

or

(d) in the case of an individual 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;”.

[This is a reference to the paragraphs inserted by Amendment 4]
SECTION 3

4. In page 7, lines 21 to 30 deleted and the following substituted:
   “(a) is an employee,
   (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 undertook to do or perform (whether personally or otherwise) any work or services for another party to the contract for the purposes of that party’s business.”.

5. In page 8, line 3, after “and”, “includes an individual who is deemed to be a worker by virtue of subsection (2)(b)” inserted.

6. In page 8, lines 5 to 17 deleted and the following substituted:
   “(2) For the purposes of this Act—
   (a) an individual who is or was—
      (i) a member of an Garda Síochána, or
      (ii) a civil servant (within the meaning of the Civil Service Regulation Act 1956),
   is deemed to be an employee,
   (b) an individual who is or was 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) is deemed to be a worker;
   (c) “employer”—
      (i) in relation to a member of the Garda Síochána (other than the Commissioner of the Garda Síochána), means the Commissioner of the Garda Síochána;
      (ii) in relation to a civil servant (within the meaning aforesaid), has the meaning given by section 2A(2) of the Unfair Dismissals Act 1977;
      (iii) in relation to a member of the Permanent Defence Force or the Reserve Defence Force (both within the meaning aforesaid), means the Minister for Defence.”.

SECTION 5

7. In page 8, line 25, after “information”, “(whether before or after the date of the passing of this Act)” inserted.

8. In page 8, lines 25 and 26, “in accordance with” deleted and “in the manner specified in” substituted.

9. In page 9, lines 27 and 28 deleted.

SECTION 6

10. In page 9, line 30, “in accordance with” deleted and “in the manner specified in” substituted.
[SECTION 7]

SECTION 7
11. In page 10, line 5, “in accordance with” deleted and “in the manner specified in” substituted.

SECTION 8
12. In page 10, line 26, “in accordance with” deleted and “in the manner specified in” substituted.

SECTION 9
13. In page 10, line 31, “in accordance with” deleted and “in the manner specified in” substituted.
14. In page 10, line 32, after “advice”, “(including advice relating to the operation of this Act)” inserted.
15. In page 10, line 32, “solicitor or trade union official” deleted and the following substituted:
   “solicitor, trade union official or official of an excepted body (within the meaning of section 6 of the Trade Union Act 1941)”.

SECTION 10
16. In page 10, lines 34 and 35 deleted and the following substituted:
   “10. (1) A disclosure is made in the manner specified in this section if it is made otherwise than in the manner specified in sections 6 to 9 and—”.

SECTION 10
17. In page 11, line 9, “in accordance with” deleted and “in the manner specified in” substituted.
18. In page 11, line 13, “under” deleted and “in the manner specified in” substituted.
19. In page 11, line 16, “in accordance with” deleted and “in the manner specified in” substituted.
20. In page 11, line 17, “in accordance with” deleted and “in the manner specified in” substituted.
21. In page 11, lines 27 to 29 deleted.

SECTION 11
22. In page 12, line 21, “(f)” deleted and “(e)” substituted.

SECTION 12
23. In page 13, line 10, “or (e)” deleted.

SECTION 13
24. In page 14, line 14, after “Schedule 2,”, “or” inserted

SECTION 16
25. In page 14, lines 16 to 18, all words from and including “2004, or” in line 16 down to and including “2005.” in line 18 deleted and “2004.” substituted.
26. In page 15, lines 3 and 4, “shall take all reasonable steps to avoid disclosing” deleted and “shall not disclose” substituted.
27. In page 15, between lines 6 and 7, the following inserted:
   “(a) the person to whom the protected disclosure was made or referred shows that he or she took all reasonable steps to avoid disclosing any such information,”.
SECTION 17

28. In page 16, line 3, “in accordance with” deleted and “in the manner specified in” substituted.

29. In page 16, line 4, “in accordance with” deleted and “in the manner specified in” substituted.

30. In page 16, line 6, “in accordance with” deleted and “in the manner specified in” substituted.

31. In page 16, line 11, “in accordance with” deleted and “in the manner specified in” substituted.

32. In page 16, line 20, “in accordance with” deleted and “in the manner specified in” substituted.

33. In page 16, line 21, “in accordance with” deleted and “in the manner specified in” substituted.

SECTION 18

34. In page 18, line 10, “in accordance with” deleted and “in the manner specified in” substituted.

35. In page 18, line 11, “in accordance with” deleted and “in the manner specified in” substituted.

SECTION 19

36. In page 18, between lines 13 and 14, the following inserted:

“Amendments of Garda Síochána Act 2005

19. (1) The Garda Síochána Act 2005 is amended—

(a) by inserting the following section after section 102:

“Protected disclosures relating to the Garda Síochána

102A. (1) Where a disclosure relating to the Garda Síochána is disclosed to the Ombudsman Commission as a prescribed person under section 7 of the Protected Disclosures Act 2014 in respect of disclosures so relating, it may, if it appears to it desirable in the public interest to do so, investigate the disclosure, even if the worker (within the meaning of that Act) making the disclosure is a member of the Garda Síochána.

(2) The provisions of this Part relating to investigations and reports apply with the necessary modifications in relation to a relevant wrongdoing to which a disclosure referred to in subsection (1) relates as though it were the subject of a complaint referred to in section 91.”,

and

(b) by repealing section 124.

(2) The Garda Síochána (Confidential Reporting of Corruption or Malpractice) Regulations 2007 (S.I. No. 168 of 2007) are revoked.”.”.

[Acceptance of this Amendment involved the deletion of section 19 of the Bill]
SECTION 21

37. In page 19, between lines 10 and 11, the following inserted:

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

21. (1) Every public body shall establish and maintain procedures for the making of protected disclosures by workers who are or were employed by the public body and for dealing with such disclosures.

(2) The public body shall provide to workers employed by the body written information relating to the procedures established and maintained under subsection (1).

(3) The Minister may issue guidance for the purpose of assisting public bodies in the performance of their functions under subsection (1) and may from time to time revise or re-issue it.

(4) Public bodies shall have regard to any guidance issued under subsection (3) in the performance of their functions under subsection (1).”.

[Acceptance of this Amendment involved the deletion of section 21 of the Bill]

SECTION 22

38. In page 19, between lines 15 and 16, the following inserted:

“Annual report

22. (1) Every public body shall prepare and publish not later than 30 June in each year a report in relation to the immediately preceding year in a form which does not enable the identification of the persons involved containing information relating to the matters specified in subsection (2).

(2) Those matters are—

(a) the number of protected disclosures made to the public body,

(b) the action (if any) taken in response to those protected disclosures, and

(c) such other information relating to those protected disclosures and the action taken as may be requested by the Minister from time to time.”.

SCHEDULE 1

39. In page 20, line 9, “7 days” deleted and “21 days” substituted.

40. In page 21, line 1, “that” deleted.
[SCHEDULE 4]

SCHEDULE 4

41. In page 31, lines 10 to 27 deleted.

42. In page 38, between lines 20 and 21, the following inserted:

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17 Further Education and Training Act 2013 (No. 25 of 2013) Section 34 After subsection (3) insert—
“(4) This section does not apply to a communication that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.”.
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