



**SEANAD ÉIREANN**

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**AN BILLE UM NOCHTADH COSANTA (LEASÚ), 2022  
PROTECTED DISCLOSURES (AMENDMENT) BILL 2022**

**LEASUITHE TUARASCÁLA  
REPORT AMENDMENTS**

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# SEANAD ÉIREANN

## AN BILLE UM NOCHTADH COSANTA (LEASÚ), 2022 —AN TUARASCÁIL

### PROTECTED DISCLOSURES (AMENDMENT) BILL 2022 —REPORT

#### *Leasuithe Amendments*

*\*Government amendments are denoted by an asterisk*

1. In page 12, to delete lines 13 to 22 and substitute the following:

“(5A) Matter concerning interpersonal grievances exclusively affecting a reporting person, namely, grievances about interpersonal conflicts between the reporting person and another worker, or a matter concerning a complaint by a reporting person to, or about, his or her employer which concerns the worker exclusively and which clearly does not demonstrate wider wrongdoing, shall not be a relevant wrongdoing for the purposes of this Act and may be dealt with through any agreed procedures applicable to such grievances or complaint to which the reporting person has access or such other procedures, provided in accordance with any rule of law or enactment (other than this Act), to which the reporting person has access, notwithstanding the fact that a wilful and reckless attempt by an employer to mischaracterise a protected disclosure as an interpersonal grievance, where relevant wrongdoing has been demonstrated, shall be considered an offence as per 14A(1)(a).”.

—*Senators Paul Gavan, Lynn Boylan.*

2. In page 12, between lines 22 and 23, to insert the following:

“(5B) A matter concerning interpersonal grievances exclusively affecting the reporting person, as described in subsection (5A), shall constitute a relevant wrongdoing where such interpersonal grievances arise out of the penalisation of a reporting person by virtue of them having made a protected disclosure.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

3. In page 12, between lines 22 and 23, to insert the following:

“(5B) The Minister shall, within 9 months of the passing of this Act, lay draft guidelines clarifying that engagement in a process relating to an interpersonal grievance does not preclude a person from making a protected disclosure.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

4. In page 12, between lines 22 and 23, to insert the following:

“(5B) For the avoidance of doubt an interpersonal grievance shall not preclude a person from making a protected disclosure under any relevant section of this Act.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

5. In page 12, to delete lines 28 to 33 and substitute the following:

“**5A.**(1) Without prejudice to the provisions of any other enactment, a person who receives an anonymous report made in the manner specified in section 6 shall accept such an anonymous report and if he or she considers it appropriate to do so, follow-up on a matter which is the subject of that anonymous report.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

6. In page 12, after line 40, to insert the following:

“(3) For the avoidance of doubt, where a person receives an anonymous report they shall, where it is possible to do so, respond to the reporting person and inform them of their right to make a protected disclosure to the Commissioner.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

7. In page 13, between lines 14 and 15, to insert the following:

“(aa) is performing a public contract with a value of more than €3,000,000, or”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

8. In page 14, between lines 12 and 13, to insert the following:

“(6A) In making an order under subsection (4), the Minister shall have regard to the need to ensure that companies performing high value public contracts establish internal reporting channels regardless of the number of employees they have.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

9. In page 24, between lines 2 and 3, to insert the following:

“(ia) the worker reasonably believes that their own manager or the head of the public body is complicit in the wrongdoing concerned;”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

10. In page 24, between lines 2 and 3, to insert the following:

“(ia) the worker did not feel confident to make a report under section 6, 7 or 8 due to a reasonable fear of penalisation;”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

11. In page 24, line 4, to delete “an imminent or manifest” and substitute “a”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

12. In page 24, lines 5 and 6, to delete “, such as where there is an emergency situation or a risk of irreversible damage”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

13. In page 24, line 10, after “Commissioner” to insert “and shall notify the reporting person of the transmission of their report”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

14. In page 33, between lines 30 and 31, to insert the following:

“(15A) Where an investigation into a protected disclosure received by the Commissioner exceeds 24 months in length, the Commissioner shall notify the reporting person the reasons why the investigation has exceeded this period of time.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

15. In page 50, between lines 32 and 33, to insert the following:

“(2) The Principal Act is amended by the insertion of the following section after section 12:

**“Protection of reporting persons**

**12A.** For the avoidance of doubt and without prejudice to natural justice, any investigation carried out under this Act shall not involve a person named in a disclosure of a relevant wrongdoing, save where that person is required to provide information or testimony in the course of such an investigation.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

16. In page 51, between lines 20 and 21, to insert the following:

“(2) A reporting person who suffers damage resulting from the provision of false information in relation to their protected disclosure, where the person who provided such false information knowingly did so, has a right of action in tort against the second mentioned person.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

17. In page 57, between lines 34 and 35, to insert the following:

**“Public information campaign**

**31.** The Minister may, subsequent to the passing of this Act, hold an accessible public information campaign in respect of the role of whistleblowing in the advancement of the public good and the mechanisms by which someone may make a protected disclosure and the supports which they may avail in respect of the making of such a disclosure.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*