

# Public Interest Whistleblower Protection Act

Promulgated on January 22, 2025

Article 1            This Act is enacted to safeguard public interests, effectively detect, prevent, and investigate major illegal activities, and protect the rights and interests of whistleblowers in the public sector, state-owned enterprises, and government-controlled enterprises, groups, or institutions.

                      The whistleblowing procedures and protection of whistleblowers shall be governed by this Act. Nevertheless, if the provisions of other laws are more favorable to whistleblowers, those provisions shall prevail.

Article 2            The competent authority of this Act shall be the Ministry of Justice (MOJ).

                      The MOJ shall establish a Whistleblower Protection Committee to administer matters related to whistleblower protection provided in this Act.

                      Matters prescribed in this Act that fall within the jurisdiction of respective industry competent authorities shall be handled by those authorities accordingly. In the event of a dispute regarding the designation of the competent authority for a particular enterprise, such dispute shall be resolved by the Whistleblower Protection Committee.

                      The Whistleblower Protection Committee shall comprise 7 members, with the minister of justice serving as the chairperson and an ex-officio member. The remaining committee members shall be appointed by the competent authority from individuals who possess any of the following qualifications, and shall serve a term of 3 years:

- I.        Those who have served as judges, prosecutors, attorneys, or other individuals possessing legally recognized professional or technical qualifications, with more than 5 years of relevant experience.
- II.       Those who have served or currently serve as professors in colleges or universities recognized by the Ministry of Education, with more than 5 years of service and an established reputation for excellence.
- III.      Those who are engaged in specialized research or have made contributions to the protection of whistleblowers or human rights, or have practical experience with relevant public interest groups, and possess an established reputation for excellence.

The organizational regulations, selection and appointment procedures, handling procedures, and other matters to be complied with by the Whistleblower Protection Committee shall be prescribed by the competent authority.

Article 3

The term "corruption case" as used in this Act refers to cases involving civil servants or personnel of government agencies (institutions) and government-controlled enterprises, groups, or institutions, who have committed any of the following crimes or illegal acts, or other acts that affect the public interest and are of a serious nature:

- I. Acts constituting offenses under the Chapter on Malfeasance in Office in the Criminal Code of the Republic of China.
- II. Violations of the Anti-Corruption Act.
- III. Acts of harboring criminal offenders; provided, however, that this shall be limited to cases where such acts are explicitly subject to criminal penalties.
- IV. Violations of the Act on Recusal of Public Servants Due to Conflicts of Interest, where such acts are subject to fines.
- V. Violations of the Government Procurement Act.
- VI. Acts subject to evaluation under Article 30, Paragraph 2, Subparagraph 7 or Article 89, Paragraph 4, Subparagraph 7 of the Judges Act.
- VII. Violations of any of the following provisions, where such acts endanger the public interest and are of serious nature:
  - (I) Offenses against public safety, fraud, breach of trust, and usury under the Criminal Code of the Republic of China, including violations of Articles 231-1, 296, and 296-1.
  - (II) Violations of the Money Laundering Control Act, the Organized Crime Prevention Act, the Firearms, Ammunition, and Knives Control Act, The Smuggling Penalty Act, the Narcotics Hazard Prevention Act, the Human Trafficking Prevention Act, and the Child and Youth Sexual Exploitation Prevention Act.
  - (III) Offenses related to interference with voting under the Criminal Code, or violations of the Public officials Election And Recall Act, the Presidential and Vice Presidential Election and Recall Act, the Referendum Act, or the Anti-

Infiltration Act.

(IV) Violations of the Trade Secrets Act.

(V) Violations of The Banking Act of The Republic of China, the Insurance Act, the Securities Exchange Act, the Futures Trading Act, the Trust Enterprise Act, the Financial Holding Company Act, The Act Governing Bills Finance Business, the Securities Investment Trust and Consulting Act, the Fair Trade Act, or other relevant economic and fiscal regulations.

(VI) Violations of the Soil and water Conservation Act, the Slope Land Conservation and Utilization Act, the Air Pollution Control Act, the Water Pollution Control Act, the Marine Pollution Control Act, the Waste Disposal Act, the Toxic and Concerned Chemical Substances Control Act, the Soil and Groundwater Pollution Remediation Act, the Environmental Agents Control Act, or other relevant environmental protection regulations.

(VII) Violations of the Pharmaceutical Affairs Act, the Medical Devices Act, the Act Governing Food Safety and Sanitation, the Communicable Disease Control Act, or other relevant health and welfare regulations.

(VIII) Violations of the Labor Standards Act, the Labor Inspection Act, the Occupational Safety and Health Act, the Employment Service Act, or other relevant labor regulations.

(IX) Violations of the Sexual Harassment Prevention Act, the Gender Equality in Employment Act, and the Gender Equity Education Act.

(X) Violations of the People with Disabilities Rights Protection Act, the Senior Citizens Welfare Act, and The Protection of Children and Youths Welfare and Rights Act.

VIII. Other crimes or acts that violate major public interests and acts punishable by administrative fines or penalties.

The scope of corruption cases defined in Subparagraph 8 of the preceding paragraph shall be determined by the competent authority in consultation with relevant authorities and shall be subject to regular review, adjustment, addition, or deletion.

Article 4            The term "agency responsible for receiving disclosures" as used in this Act is defined

as follows:

- I. Directors and heads of government agencies (institutions) or personnel and units designated by them.
- II. Directors or persons in charge of state-owned enterprises, government-controlled enterprises, groups, or institutions, or units and personnel designated by them.
- III. Prosecutorial agencies.
- IV. Judicial police agencies.
- V. Competent authorities of the respective enterprises.
- VI. The Control Yuan.
- VII. Government employee ethics units.

If the whistleblowing content involves classified national security information governed by the Classified National Security Information Protection Act, the whistleblower shall report to any of the following agencies to be protected under this Act:

- I. Confidential matters shall be reported to the agencies receiving disclosures as listed in Subparagraphs 1, 3, or 6 of the preceding paragraph.
- II. Matters classified as Top Secret information and Secret information shall be reported to the Supreme Prosecutors Office or the Taiwan High Prosecutors Office and its branches.

The agency receiving a disclosure shall protect the contents thereof in accordance with applicable laws.

Where the agency receiving the disclosure determines that it is not the content authority to handle the matters, it shall forward the disclosure to the relevant competent authority and notify the whistleblower. A disclosure that is forwarded to the relevant competent authority shall continue to be protected under this Act.

#### Article 5

The term "whistleblower" as used in this Act is defined as follows:

- I. Public sector whistleblowers: Refers to civil servants or counterparties who provide labor services and receive remuneration under employment, commissioned work, appointment, dispatch, contracting, special agreements, or other contractual relationships with government agencies (institutions), as well as their employees, who, upon having reasonable grounds to believe that a

government agency (institution), its employees, or other civil servants are involved in any of the disclosure matters listed in Article 3, submit a signed disclosure to one of the agencies responsible for receiving disclosures as set forth in Paragraph 1 of the preceding article.

- II. Whistleblowers in state-owned enterprises or government-controlled enterprises, groups, or institutions: Refers to contract-based workers who provide labor services and receive remuneration under assignment, employment, commissioned work, appointment and dispatch, contracting, special agreements, and other contractual relationships with state-owned enterprises or government-controlled enterprises, groups, or institutions, as well as their employees, who, upon having reasonable grounds to believe that the enterprise, group, or institution where they work or provide labor services, or its employees, are involved in any of the disclosure matters listed in Article 3, Subparagraph 5, 7, or 8, submit a signed report to one of the agencies responsible for receiving disclosures as set forth in Paragraph 1 of the preceding article.

The term "civil servant" as used in Subparagraph 1 of the preceding paragraph refers to personnel engaged in public affairs in accordance with laws, excluding political appointees and elected representatives at all levels.

The term "government agency (institution)" as used in this Act refers to central and local government agencies at all levels, non-departmental public bodies, public schools, public medical institutions, government-owned enterprises, and foundations that receive donations from the government.

The term "state-owned enterprise" as used in this Act refers to enterprises as defined in Article 3 of the State-Owned Enterprise Management Act.

The term "government-controlled enterprise, group, or institution" as used in this Act refers to those announced by the Ministry of Civil Service, including enterprises in which the government and its affiliated enterprise funds or non-profit funds have cumulatively invested 20% or more of the enterprise's total capital, whether through indirect investment or reinvestment, as well as enterprises, groups, or institutions whose personnel, finances, or operations are directly or indirectly controlled by the government, whether through indirect

investment or reinvestment.

Disclosures concerning the enterprises, groups, or institutions referred to in the preceding paragraph are limited to cases where the enterprise, group, or institution was included in the public announcement at the time the disclosure matter occurred.

#### Article 6

Where a whistleblower submits a disclosure to an agency responsible for receiving disclosures but does not receive a notification of acceptance for investigation within 20 days, and, after urging the agency, still does not receive a response within 10 days, the whistleblower may submit a signed disclosure to one of the following individuals or legal persons. The whistleblower shall be protected under this Act from the time the disclosure was initially submitted to the original agency responsible for receiving disclosures:

- I. Elected representatives at the central or local governments.
- II. Media outlets that have registered their business.
- III. Public welfare organizations that are registered as legal persons.

Where a whistleblower submits a disclosure to an agency responsible for receiving disclosures but does not receive a notification of the investigation results within 6 months, and, after urging the agency, still does not receive a response within 10 days, the whistleblower may submit a signed disclosure to one of the individuals or legal persons referred to in the preceding paragraph. The whistleblower shall be protected under this Act from the time the disclosure was initially submitted to the original agency responsible for receiving disclosures.

Where a whistleblower does not submit a disclosure in accordance with Article 4 but instead submits the disclosure to one of the individuals or legal persons referred to in Paragraph 1, such individuals or legal persons shall forward the disclosure to an agency responsible for receiving disclosures within 10 days of receipt. Where , upon investigation, the disclosure is found to be truthful, the whistleblower shall be protected under this Act starting from the date the disclosure was initially submitted to the individuals or legal persons referred to in Paragraph 1.

Where a whistleblower, after receiving a case closure notification from the original agency responsible for receiving disclosures indicating that the investigation found no evidence, subsequently submits a disclosure to the individuals or legal persons referred to in

the preceding paragraph, the whistleblower shall be protected under this Act only if the case results in prosecution, deferred prosecution, ex officio non-prosecution, an application for summary judgment, a ruling for private prosecution, disciplinary action, administrative action, punishment, impeachment, correction, censure, or an administrative fine.

Article 7           The agency responsible for receiving disclosures shall conduct an investigation into the subject matter of the disclosure, and may require the whistleblower, the implicated enterprise unit, the agency (institution), or other relevant parties to provide supporting evidence and cooperate with the investigation. The relevant parties involved in the case shall not refuse to cooperate without just cause.

For the purpose of preserving evidence, prior to the rendering of a court judgment, the agency responsible for receiving disclosures may petition with the court for seizure, applying mutatis mutandis Article 133 of the Code of Criminal Procedure.

Article 8           Government agencies (institutions), legal persons or groups, or individuals shall not impose any adverse treatment on a whistleblower for engaging in any of the following acts:

- I.       Submitting a disclosure as defined in Article 3.
- II.      Cooperating in the investigation of a disclosure case or serving as a witness.
- III.     Refusing to participate in the decision-making or execution of illegal acts.
- IV.     Persons who suffer adverse treatment due to performing any of the actions listed in the 3 preceding subparagraphs may seek remedies in accordance with the law.

The term "adverse treatment" as used in the preceding paragraph includes any of the following:

- I.       Dismissal, recall from position, removal, suspension, contract termination, demotion or transfer, or negative job appraisal, disciplinary action, punishment, and personnel evaluation.
- II.      Reduction of salary or pay, fine (including salary deduction), or forfeiture or reduction of bonuses or retirement pay (including for civil servants or military personnel).
- III.     Forfeiture of education and training opportunities, benefits, or special rights related to promotion and transfer.
- IV.     Adverse changes in workplace location, job duties, working conditions, or other

personnel or management measures.

V. Unlawful disclosure of the whistleblower's identity.

Persons who have been subjected to any of the adverse treatments set forth in Paragraph 1 may apply for any of the following remedies:

- I. Reinstatement to the position or job responsibilities prior to the adverse treatment; if the original position has been filled or abolished, reinstatement to an equivalent position and responsibilities.
- II. Restoration of original seniority, special rights, bonuses, retirement pay (both civilian and military), welfare, working conditions, and management measures.
- III. Reimbursement of salary or wage and compensation for financial losses incurred during the period of adverse treatment.
- IV. Those who have suffered harm to their physical well-being, health, reputation, freedom, credit, privacy, or other legally protected personal rights, even if the harm does not constitute financial loss, may still claim compensation in an appropriate amount. Those whose reputation has been harmed may also request appropriate measures for reputation restoration.

The compensation for financial losses mentioned in Subparagraph 3 of the preceding paragraph includes a reasonable estimation of expected benefits other than salary or wage, as well as reasonable expenses and attorney's fees incurred in seeking legal remedies following the imposition of adverse treatment.

In disputes concerning adverse treatment as specified in Paragraph 2, the recipient of the adverse treatment shall first provide evidence of the following:

- I. That they engaged in one of the acts listed in Paragraph 1.
- II. That they were subjected to adverse treatment specified in Paragraph 2.
- III. That the act described in Subparagraph 1 occurred before the adverse treatment described in Subparagraph 2.

Once the person subjected to adverse treatment has provided the evidence specified in the preceding paragraph, it shall be presumed that a violation of Paragraph 1 of this article has occurred. However, this presumption shall not apply if the employing government agency (institution), legal person, or group, or its head or employer, can prove that the same



personnel measure would have been taken at the time for legitimate reasons, even in the absence of such acts.

Any agreement that prohibits whistleblowers from engaging in any of the acts listed in Paragraph 1 or restricts their right to make requests under Paragraphs 3 and 4 shall be ~~deemed invalid~~ void.

#### Article 9

A civil servant subjected to adverse treatment under Article 8, Paragraph 2, Subparagraphs 1 to 4 shall apply for an administrative remedy in accordance with the legal procedures applicable to their original identity relationship. The right to claim compensation under Subparagraphs 3 and 4 of Paragraph 3 of the same article shall commence from the date on which the government agency (institution) renders a decision deeming the restoration of the original state or the administrative remedy to be justified in accordance with the claim under Paragraph 2. The right to claim compensation arising from adverse treatment as provided in Article 8, Paragraph 2, Subparagraph 5 shall be extinguished if not exercised within 6 months from the date the claimant becomes aware of the occurrence of the fact. The same shall apply if more than 2 years have passed since the occurrence of the damage.

If a civil servant, in the process of an appeal, reappeal, review, administrative appeal, evaluation, disciplinary action, administrative litigation, or other personnel administrative remedy procedures, claims that they have performed any of the acts listed in Article 8, Paragraph 1 and have been transferred or subjected to adverse treatment, such claims shall be investigated before other matters. The determination of the validity of the claims shall be based on the results of the investigation.

If a civil servant subjected to adverse treatment claims that their transfer or disciplinary action resulted from performing acts specified in Article 8, Paragraph 1, and such claims are determined to be valid, leading to a final ruling of no disciplinary action upon review by the Disciplinary Court, they may apply for compensation as provided in Article 8, Paragraph 3, Subparagraphs 3 and 4. The provisions of the statute of limitations in Paragraph 1 shall apply *mutatis mutandis*.

The exercise of the claims referred to in Paragraph 1 and the preceding paragraph shall not prejudice any rights exercised under the Civil Code, the State Compensation Law, or

other laws.

#### Article 10

A person who is not a civil servant but has been subjected to adverse treatment by their employer due to violation of Article 8, Paragraph 1 may terminate the labor contract without prior notice within 30 days of becoming aware of the situation.

The person referred to in the preceding paragraph may request the employer to pay severance, pension, and compensation equivalent to 6 months of wages, as provided in the Labor Standards Act, the Labor Pension Act, or other laws and regulations. The right to claim shall be extinguished if not exercised within 6 months from the termination of the labor contract.

The right to claim of a person who is not a civil servant but has been subjected to adverse treatment as provided in Article 8, Paragraph 3, shall be extinguished if not exercised within 6 months from the date of becoming aware of the occurrence of the fact. The same shall apply if more than 2 years have passed since the occurrence of the damage.

In the process of exercising the right to request remedies under the preceding 2 paragraphs, if a person who is not a civil servant and has been subjected to adverse treatment claims that they have performed any of the acts listed in Article 8, Paragraph 1, such claims shall be investigated before other matters. The determination of the validity of the claims shall be based on the results of the investigation.

The provisions of Article 8, Paragraphs 5 and 6 shall apply to the exercise of the claims referred to in Paragraphs 2 and 3 and shall not prejudice any rights exercised under the Civil Code, or other laws.

Where reinstatement pursuant to Article 8, Paragraph 3, Subparagraph 1 is clearly factually difficult, the employer may provide severance, pension, and compensation equivalent to 12 months of wages, as provided in the Labor Standards Act, the Labor Pension Act, or other laws and regulations, to the person subjected to adverse treatment and mutually agree to terminate their labor contract.

The compensation referred to in Paragraph 2 and the preceding paragraph shall be calculated based on the wages of the person subjected to adverse treatment 1 month prior to performing the acts specified in the subparagraphs of Article 8, Paragraph 1.

A person subjected to adverse treatment who is not a civil servant but receives a salary

from a government agency (institution), legal person, or group under a service contract may apply for compensation mutatis mutandis pursuant to Paragraphs 2, 4, and the preceding paragraph. However, if the provisions of the contract are more favorable to the person subjected to adverse treatment, those provisions shall prevail.

Article 11           Those who violate Article 8, Paragraph 1, shall be punished in the following manner:

- I.       For civil servants, disciplinary or administrative actions shall be imposed in accordance with the Public Functionaries Discipline Act, the Civil Servant Performance Evaluation Act, or other laws and regulations, depending on the severity of the offense.
- II.      For natural persons who are not civil servants, as well as state-owned enterprises, government-controlled enterprises, groups, or institutions, a fine of no less than NT\$50,000 and no more than NT\$5,000,000 shall be imposed by the competent authority of a particular enterprise. However, if provisions of other laws prescribe a more severe punishment, those provisions shall prevail.

Pursuant to Subparagraph 2 of the preceding paragraph, the competent authority of a particular enterprise may be required to make improvements within a prescribed period. If it fails to do so, a penalty shall be re-imposed for each additional offense.

Article 12           A whistleblower who files a report in accordance with the procedures set forth in this Act with one of the agencies responsible for receiving disclosures under Article 4 shall not be held civilly, criminally, administratively, or professionally liable for the disclosure of secrets if the report involves state secrets, trade secrets, or other legally confidential matters. The same shall apply to the aforesaid legally confidential matters when seeking legal advice from an attorney for the purpose of filing the report.

Article 13           If a whistleblower is the principal offender or an accomplice in the offense reported and meets the requirements of Article 3 and Article 14, Paragraph 1 of the Witness Protection Act, their punishment may be mitigated or exempted in accordance with Article 14, Paragraph 1 of said act, without being subject to the restrictions on the offenses listed in Article 2 of said act.

If a whistleblower referred to in the preceding paragraph, who has been exempted from punishment by a court ruling, is reappointed to public office, they may not be subject to the

restrictions set forth in Article 28, Paragraph 1, Subparagraph 4 of the Civil Servant Employment Act.

Article 14        If a whistleblower meets the requirements of Article 3 of the Witness Protection Act, they or their close associates may be provided with personal safety protection measures in accordance with said act, without being subject to the restrictions on the offenses listed in Article 2 of said act.

A person who intends to obstruct or retaliate against a whistleblower protected under this Act for exposing malpractices, cooperating in investigations, or serving as a witness by committing a criminal act against the whistleblower or their close associates shall have the punishment for such a crime increased by half.

The term "close associate of the whistleblower" as used in this Act refers to the whistleblower's spouse, lineal relative by blood, collateral relative by blood within third degree of kinship, relatives by marriage within second degree of kinship, parents, family members, fiancé(e), or other persons who have a close relationship with the whistleblower due to their status or daily interactions.

Article 15        Agencies responsible for receiving disclosures, along with their investigators, inspection personnel, law enforcement personnel, or other persons performing corresponding duties and operations in accordance with the law, shall keep the identity of the whistleblower confidential and may not disclose it to the person being reported or any other person without justifiable reason and the whistleblower's consent.

Civil servants who leak the identity of a whistleblower without a justifiable reason shall be punished with imprisonment for a term of no less than 6 months and no more than 5 years. In addition, a fine of up to NT\$300,000 may be imposed.

Those who commit the offense in the preceding paragraph due to negligence shall be punished with imprisonment for a term of no more than 1 year, detention, and/or a fine of up to NT\$100,000.

Non-civil servants who leak the identity of a whistleblower without a justifiable reason shall be punished with imprisonment for a term of no more than 1 year, detention, and/or a fine of up to NT\$100,000.

Article 16        Unless otherwise provided by law or if confidentiality of identity is no longer

necessary, a whistleblower may request that their personal data be recorded in transcripts and documents using a code, with their name, gender, date of birth, residence, identification document serial number, or any other information that could directly or indirectly identify them concealed. If it is necessary to keep their signature confidential, they may use a fingerprint or sign with a code instead. A comparison table linking the codes and real names shall be prepared, sealed in an envelope, and attached to the file.

Unless otherwise provided by law, the transcripts or documents referred to in the preceding paragraph may not be made available for viewing or provided to any agency (institution), legal person, group, or individual other than investigative or judicial authorities.

When a whistleblower is questioned (interrogated) during an investigation or trial, they may, upon request, have their face concealed, voice or image altered, or participate via video conference or other appropriate isolation methods. The same applies when they are confronted or cross-examined in accordance with the law.

The whistleblower may opt to forfeit the protection measures in the preceding 3 paragraphs.

Article 17        A whistleblower may still be entitled to protection under this Act if any of the following circumstances apply to their report:

- I.        The contents of the report cannot be verified. However, this does not apply in cases where the information is clearly false or untrue, or where the whistleblowing act is proven to constitute false accusations, perjury of deferred prosecution, or has resulted in a final guilty verdict.
- II.       The contents of the report have already been reported by others or are known to the agencies responsible for receiving disclosures. However, this does not apply in cases where the information has already been made public or where the whistleblower is aware that someone else has previously reported the matter.

Article 18        If an unlawful act is discovered as a result of a whistleblower's report, a reward shall be granted. However, this does not apply to government agencies (institutions) and their personnel, spouses, or relatives within third degree of kinship who become aware of the unlawful act in the course of exercising public authority.

The government agency (or institution), legal person, group, or employer where the whistleblower is employed shall not claim a deduction from the reward received by the whistleblower in accordance with the law.

The standards and other matters related to the disbursement of rewards referred to in Paragraph 1 shall be determined by the competent authority in collaboration with the relevant competent authority of a particular enterprise. However, the reward shall not be less than 10% of the total sum of fines, penalties, confiscated assets or property interests, levied payments, or property compensation imposed on the violator as a result of the whistleblower's report.

Article 19 To protect the rights and interests of whistleblowers, the whistleblower protection committee shall oversee the following matters:

- I. Assisting whistleblowers in claiming their rights to remove adverse treatment and request compensation for damages in accordance with this Act.
- II. Providing necessary legal advice and legal assistance to whistleblowers.
- III. Assisting whistleblowers or their close associates in seeking personal protection measures and accommodation pursuant to this Act.
- IV. Providing assistance to whistleblowers in obtaining both physical and psychological emergency medical care, as well as support for rebuilding their lives.
- V. Promoting awareness, initiatives, and conducting research on whistleblower protection.
- VI. Other matters related to whistleblower protection.

The competent authority shall designate personnel or hire professionals, as per the orders of the chairperson, to assist the whistleblower protection committee in performing its duties.

Article 20 The Executive Yuan, in conjunction with the Judicial Yuan and the Examination Yuan, shall promulgate the Implementing Regulations of this Act.

Article 21 This Act shall come into force at the end of 6-month period after the date of promulgation.