

Icelandic Whistleblower Protection Act

- Draft -

PART I

General Provisions

CHAPTER I

Scope of Application

Article 1

This Act shall apply to

- (1) employees in the private sector,
- (2) persons being in a similar position as employees,
- (3) civil servants,
- (4) members of the armed forces and
- (5) informants of the press.

CHAPTER II

Definitions

Article 2

A “whistleblower” is a person who discloses information about perceived nuisances occurring in an organisation or body of people. A whistleblower may use either internal or external channels to report about nuisances.

The term “employee” includes job applicants, trainees, volunteers and former employees.

A “person being in a similar position as an employee” is a person who does not work in personal, but in economic dependence for only one employer and is therefore in a similar social position as an employee.

The term “civil servant” also covers government officials.

An “informant of the press” is a person who provides secret information about wrongdoing for the press to release the information to the public.

A “data subject” is an identified or identifiable natural person being affected by data processing.

PART II

Employment Law

CHAPTER III

Private Sector

Article 3

Right to complain about nuisances

Every employee – not dependent on his position in the company – has the right to complain about serious nuisances he becomes aware of at work.

Serious nuisances especially are

- (1) criminal acts,
- (2) breaches of legal obligations
- (3) dangers to the lives or physical conditions of people,
- (4) dangers to the environment (e. g. pollution),
- (5) the concealment of such acts.

Article 4

Establishment of internal whistleblowing schemes

Companies comprising of at least [15, 20, 25...] employees shall establish internal whistleblowing schemes (e. g. telephone hotlines, web forms or internal ombudsmen) for the confidential or anonymous reporting of nuisances.

Article 5

Priority of internal whistleblowing schemes

Internal channels for whistleblowing established in a company (e. g. telephone hotlines, web forms or internal ombudsmen) shall be used prior to external channels. External channels shall only be used in the case the use of internal channels is ineffective or unreasonable.

The use of internal channels is ineffective or unreasonable in the case

- (1) the existing threat to the lives or physical condition of people, the environment or the welfare of the company is overwhelming and can be addressed best by an external or
- (2) the whistleblower cannot reasonably expect the help of the employer or other internal contact persons.

External contact persons are

- (1) the department of public prosecutors,
- (2) police officers,
- (3) responsible regulatory bodies and
- (4) members of the Icelandic parliament.

The media shall only be contacted as last resort.

Article 6

Whistleblower protection against detriment

Whistleblowers acting in good faith shall not suffer any detriment concerning their career. This includes protection against dismissal, job sanctions and punitive transfers as well as against any form of harassment at work.

Whistleblowers are not acting in good faith by the time they intentionally or frivolously report about alleged nuisances in order to harm their employers or colleagues.

Article 7

Burden of proof

In the case of litigations it shall be up to the employer to establish beyond reasonable doubt that any measures taken to the detriment of a whistleblower were motivated by reasons other than the latter's disclosure.

CHAPTER IV

Public Sector

Article 8

Application to civil servants and members of the armed forces

Articles 3 to 7 do equally apply to civil servants and members of the armed forces.

Article 9

Obligation of confidentiality

The obligation of confidentiality according to Article 18 of The Government Employees Act, No. 70/1996 is allowed to be broken in the case of extreme circumstances of public interest. Extreme circumstances of public interest arise in the case of

- (1) serious criminal acts (e. g. corruption, fraud, financial misstatements)
- (2) threats to the lives or physical conditions of people
- (3) threats to the environment.

PART III

Criminal Law

Article 10

Waiver of criminal liability

Whistleblowers acting in good faith shall not be prosecuted for libel, slander or breach of confidence.

Whistleblowers providing information for journalists shall not be prosecuted for complicity in betrayal of (states) secrets.

Article 11

Rewards

If a whistleblower files a criminal case on behalf of the government and if this suit is successful, the whistleblower shall receive [15-10 percent] of the government`s total recovery.

Article 12

Penalty for discriminating acts against a whistleblower

Whoever knowingly, with the intent to retaliate, takes an action against a whistleblower including dismissals and other discriminating acts, shall be find [degree of penalty] or imprisoned [degree of penalty].

PART IV

Media Law

Article 13

Media sources are under absolute protection.

Informants of the press shall under no circumstances be forced to uncover their identity.

PART V

Data Protection Law

CHAPTER V

Rights of the whistleblower

Article 14

Anonymity of the whistleblower

Whistleblower reports shall under all circumstances be treated confidentially.

Anonymous reports are allowed. In individual cases the anonymity of the whistleblower cannot be granted. This especially is the case if there exists the strong suspicion that the whistleblower is acting in bad faith to harm the company or another employee.

CHAPTER VI

Rights of the data subject

Article 15

Right of information

The data subject has the right to be informed about the storage of his personal data and the purpose of the processing for which the data are intended.

Information may be denied if the purpose of investigations would be foiled otherwise.

Article 16

Rectification, blocking and erasure of data

The data subject has the right of rectification of inaccurate personal data.

Personal data has to be blocked if it's accuracy is denied by the data subject and cannot be ensured. Blocked data shall not be transmitted to third parties.

Personal data about the subject of the act of whistleblowing shall be erased as soon as the purpose of investigation is fulfilled, at least two months after the end of the investigation.

PART VI

Entry into force

Article 17

This Act enters into force on [date of commencement of the Act].

