



The Law Reform Commission

APPENDIX A

Protected Disclosures Bill, 2014

Law Reform Commission 14 April, 2014

Monday, 14 April 2014
CAYMAN ISLANDS



Supplement No. published with Gazette No. dated ,
2014.

A BILL FOR A LAW TO ENCOURAGE AND FACILITATE THE MAKING BY PERSONS OF SPECIFIED DISCLOSURES OF IMPROPER CONDUCT IN THE PUBLIC INTEREST; TO PROTECT PERSONS WHO MAKE SPECIFIED DISCLOSURES FROM BEING SUBJECTED TO DETRIMENTAL ACTION; TO REGULATE THE RECEIVING, INVESTIGATING OR OTHERWISE DEALING WITH DISCLOSURES OF IMPROPER CONDUCT; AND FOR INCIDENTAL AND CONNECTED PURPOSES

LRC DRAFT

THE PROTECTED DISCLOSURES BILL, 2014
[MEMORANDUM OF OBJECTS AND REASONS]
TO BE COMPLETED WHEN BILL IS APPROVED

LRC DRAFT

PROTECTED DISCLOSURES BILL, 2014

ARRANGEMENT OF CLAUSES

PART 1-PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Objects of Law
4. Scope of Law
5. Promotion of ethical practices and dissemination of information

PART 2- DISCLOSURES GENERALLY

6. Disclosure to listed person
7. Disclosure to attorney-at-law
8. Procedures for making disclosures
9. Immunity from civil and criminal proceedings

PART 3 – PROVISIONS AGAINST DETRIMENTAL ACTION

10. Application of this Part
11. Protection from defamation action
12. Liability for own conduct
13. Detrimental action in reprisal for protected disclosure
14. Protection from reprisal
15. Detrimental action against an employee
16. Order for damages or re-instatement
17. Proceedings for damages for reprisal
18. Vicarious liability of employer
19. Injunction or order
20. Application for injunction or order
21. Complaints under the Labour Law (2011 Revision)
22. Remedies for detrimental action
23. Disciplinary action against person who made reprisal
24. Transfer of employee

**PART 4 – RECEIVING, INVESTIGATING AND OTHERWISE DEALING
WITH DISCLOSURES**

25. Duty to receive disclosures and carry out investigations into disclosures
26. Right to refuse; duty to refer
27. Provisions for non-disclosures in employment agreement void

PART 5 - OVERSIGHT FUNCTIONS

28. Oversight by designated authority

PART 6 - MISCELLANEOUS

29. Further offences and penalties
30. Obligation of secrecy and confidentiality
31. Regulations
32. Obligations to report under any other Law
33. Cabinet may amend monetary penalties
34. Review of Law by legislative committee
35. Law binds the Crown

- Schedule 1
Schedule 2
Schedule 3

CAYMAN ISLANDS

A BILL FOR A LAW TO ENCOURAGE AND FACILITATE THE MAKING BY PERSONS OF SPECIFIED DISCLOSURES OF IMPROPER CONDUCT IN THE PUBLIC INTEREST; TO PROTECT PERSONS WHO MAKE PROTECTED DISCLOSURES FROM BEING SUBJECTED TO DETRIMENTAL ACTION; TO REGULATE THE RECEIVING, INVESTIGATING OR OTHERWISE DEALING WITH DISCLOSURES OF IMPROPER CONDUCT; AND FOR INCIDENTAL AND CONNECTED PURPOSES¹

ENACTED by the Legislature of the Cayman Islands.

PART 1-PRELIMINARY

1. This Law may be cited as the Protected Disclosures Law, 2014, and shall come into force on such date as may be appointed by order made by the Cabinet.

Short title and commencement

2. In this Law-

Interpretation

“appointed day” means the date of commencement of this Law;

“Chief Officer” has the meaning assigned by the Public Service Management Law (2013 Revision);

(2013 Revision)

¹ Main precedents are the Protected Disclosures Act of Jamaica, the Public Interest Disclosure Act of the UK and the Protected Disclosure Act of Victoria, Australia

“complaint” means a complaint made under this Law;

“designated authority” means the person so designated under section 28;

“designated officer” means a person designated by an employer under section 8(4) as the person to whom disclosures may be made;

“detrimental action” includes-

- (a) action causing injury, loss or damage;
- (b) intimidation or harassment;
- (c) discrimination, disadvantage or adverse treatment in relation to a person's employment, family life, career, profession, trade or business, including the taking of disciplinary action;
- (d) preventing, restraining or restricting an employee from making a protected disclosure; and
- (e) inducing any person by threats, promises or otherwise to contravene this Law;

(2011 Revision)

“Director of Labour” means the Director of Labour appointed under the Labour Law (2011 Revision);

“disclosure” means disclosure of information made by a person where the person has a reasonable belief that the information disclosed shows or tends to show that improper conduct has occurred, is occurring or is likely to occur;²

“employee” means-

- (a) any person who-
 - (i) works or has worked for another person; and
 - (ii) receives, received, or is entitled to receive, any remuneration for work done;
- (b) any person who in any manner assists or has assisted in the carrying on or the conduct of the business of an employer, without any entitlement to receive remuneration or reward; or
- (c) any person who is, or was, engaged or contracted under a contract for services to do work for another person, or any agent of the person,

“employer” means any person who-

² The degree of belief - the requirement that the worker has a 'reasonable belief' means that the belief need not be correct but only that the worker held the belief and it was reasonable for him to do so- Public Concern at Work, 1998

- (a) employs or has employed another person to carry out work or provide services and who remunerates, or expressly or tacitly undertakes to remunerate, that other person for the work carried out or services provided; or
- (b) permits or has permitted another person to assist in any manner in the carrying on or the conduct of the business of that person, without any obligation to provide remuneration or reward to that other person;

“improper conduct” means-

- (a) that a criminal offence has been committed, is being committed or is likely to be committed;
- (b) a failure to carry out a legal obligation;
- (c) conduct that has resulted, is resulting or is likely to result in a miscarriage of justice;
- (d) conduct which is or is likely to be a detrimental action;
- (e) conduct that has resulted, is resulting or is likely to result, in a violation of the human rights set out in the Constitution of the Islands;
- (f) conduct that has resulted, is resulting or is likely result, in a threat to the health or safety of a person or of the public;
- (g) conduct that has resulted, is resulting or is likely to result, in a threat or damage to the environment;
- (h) conduct that shows gross mismanagement, impropriety or misconduct in the carrying out of any activity that involves the use of public funds; or
- (i) wilful concealment of any act described in paragraphs (a) to (h);

“investigation” means the carrying out of an enquiry under this Law in respect of a disclosure;

“labour tribunal” means a tribunal established under the Labour Law (2011 Revision) (2011 Revision);

“listed person” means a person specified in section 6(2) as a person to whom a disclosure can be made;

“person” means a natural person;

“prescribed person” means any person specified in Schedule 1 for receiving, investigating or otherwise dealing with disclosures under this Law;

“protected disclosure” means a disclosure made in accordance with this Law by a person to a listed person or to an attorney-at-law; and

“public entity” means a ministry, portfolio, statutory authority, government company, the Office of the Complaints Commissioner, the Office of the Information Commissioner, the Audit Office, the Legislative Assembly and the courts.

Objects of Law

3. The objects of this Law are to-

- (a) facilitate and encourage the making, in a responsible manner, of disclosures of improper conduct;
- (b) protect persons who make disclosures from being subjected to detrimental action;
- (c) regulate the receiving, investigating or otherwise dealing with disclosures;
- (d) provide protection to the person and the property of the person making the disclosure; and
- (e) compensate the person making the disclosures from damages suffered by him as a result of making such disclosures.

Scope of Law

4. (1) This Law applies to any disclosure made after the appointed day, notwithstanding that the conduct to which the disclosure relates may have occurred before the appointed day.

(2) Subject to section 6, a disclosure of information is not a protected disclosure if the person making the disclosure commits an offence by making it.

(3) Nothing in this Law authorises a person to disclose information protected by legal professional privilege and a disclosure of such information is not a protected disclosure for the purposes of this Law.³

Promotion of ethical practices and dissemination of information

5. (1) The Deputy Governor, in relation to public entities, and all employers, shall promote ethical practices as well as a positive environment for disclosing improper conduct by disseminating knowledge of this Law and information about its purposes and processes by any means that they consider appropriate.

(2) Further to subsection (1), an employer, or in the case of an employee of a public entity, the Deputy Governor, may provide information and guidance to an employee on any matter concerning this Law.

³ See section 22 of New Zealand Protected Disclosures Act; compare UK section 43B(4) of the Public Interest Disclosure Act

(3) If an employee notifies an employer or, in the case of an employee of a public entity, the Deputy Governor, orally or in writing, that he has disclosed, or is considering the disclosure of, information under this Law, the employer or the Deputy Governor as applicable, shall provide information and guidance to that employee on the following matters-

- (a) the kinds of disclosures that are protected under this Law;
- (b) the manner in which, and the persons to whom, information may be disclosed under this Law; and
- (c) the protections and remedies available under this Law if the disclosure of information in accordance with this Law leads to detrimental action against the person making the disclosure.

PART 2 - DISCLOSURES GENERALLY

6. (1) Subject to subsections (3) and (4), a person may make a protected disclosure to the listed persons specified in subsection (2).

Disclosure to listed person

(2) For the purposes of this Law a listed person means⁴-

- (a) a person's employer or the designated officer of an employer;
- (b) a Minister of Government if the person, his employer or the person to whom the disclosure relates falls under the authority of that Minister;
- (c) a prescribed person specified in Schedule 1; or
- (d) the designated authority.

(3) A person may make a disclosure only to the designated authority where-

- (a) the person has reason to believe that the improper conduct is a matter that would prejudice the national security, defence or international relations of the Islands; or
- (b) the disclosure relates to the alleged improper conduct of a prescribed person.

(4) A person may make a disclosure only to a prescribed person or the designated authority where the information relating to that disclosure was obtained by him as a professional person in the normal course of business but the prescribed person, (unless he is the Commissioner of Police) or the designated authority may not in investigating such disclosure request any subsequent disclosure relating to that investigation unless the court, upon the application of the prescribed person or the designated authority, so directs.

⁴ Compare Good Governance Act, 2012 of Bermuda

(5) Subject to subsections (3) and (4), a person making a protected disclosure may notify whichever of the persons listed in subsection (2) as appears to him to be the most appropriate person to notify in the circumstances.

(6) The Cabinet may, by order subject to affirmative resolution, amend Schedule 1-

- (a) in relation to the persons therein prescribed; or
- (b) by prescribing or modifying the categories of prescribed persons to whom disclosures shall be directed,

and the order may specify the subject matter in relation to which a person is so prescribed.

(2009 Revision) (7) In this section, “normal course of business” and “professional person” have the meanings respectively assigned by the Confidentiality Relationships (Preservation) Law (2009 Revision).

Disclosure to attorney-at-law

7. A person may make a disclosure to an attorney-at-law with the object of obtaining, or during the process of obtaining, legal advice and such disclosure is a protected disclosure.

Procedures for making disclosures

8. (1) Every listed person shall establish and operate procedures for receiving, investigating and otherwise dealing, with disclosures.

(2) Subject to subsection (7), procedures required to be established by any person under this Law for making a disclosure shall-

- (a) be in writing; and
- (b) provide that disclosures made pursuant to such procedures shall contain, at a minimum, the information specified in Schedule 2.

(3) A person making a disclosure shall provide, at a minimum, the information specified in Schedule 2 and if a disclosure is made orally, the person receiving the disclosure shall, within twenty-four hours after receiving the disclosure, cause the disclosure to be reduced into writing containing the same particulars as are specified in subsection (2).

(4) The procedures of an employer shall identify at least one designated officer to whom disclosures may be made.

(5) Designated officers shall be conferred with the requisite authority to receive, take steps to investigate or otherwise deal with any disclosure made.

(6) Each employer shall cause information on the procedures for making a disclosure to be circulated among his employees on a regular basis, in order that the employees may be made aware of the procedures.

(7) Nothing in this section precludes any person required to establish procedures under this Part from operating procedures that are established other than pursuant to this Law, but which are not inconsistent with this Law.

9. (1) Subject to section 4, this section applies notwithstanding any duty of secrecy or confidentiality or other prohibition of or restriction on the disclosure of information under any enactment, rule of law, contract or practice. Immunity from civil and criminal proceedings

(2) A person who makes a protected disclosure, or receives, investigates or otherwise deals with a protected disclosure, shall not be liable in any civil or criminal proceeding or to any disciplinary proceeding by reason of having made, received, investigated or otherwise dealt with that disclosure in accordance with this Law.

PART 3- PROTECTION AGAINST DETRIMENTAL ACTION

10. (1) This Part applies to a protected disclosure from the time the disclosure is made. Application of this Part

(2) For the purposes of this Part, any further information relating to a protected disclosure provided by the person who made the disclosure shall be treated as if it were a protected disclosure.

11. In any proceedings for defamation there is a defence of qualified privilege in respect of the making of a protected disclosure. Protection from defamation action

12. Notwithstanding anything to the contrary in this Part, a person's liability for his own conduct is not affected by the person's disclosure of that conduct under this Law. Liability for own conduct

13. (1) For the purposes of this Law, a person takes detrimental action against another person in reprisal for a protected disclosure if- Detrimental action in reprisal for protected disclosure

- (a) the person takes or threatens to take detrimental action against the other person because, or in the belief that-
 - (i) the other person or anyone else has made, or intends to make, the disclosure; or

- (ii) the other person or anyone else has cooperated, or intends to cooperate, with an investigation of the disclosure; or
- (b) for either of the reasons in paragraph (a)(i) and (ii), the person incites or permits someone else to take or threaten to take detrimental action against the other person.

Protection from reprisal

14. (1) A person shall not take detrimental action against another person in reprisal for a protected disclosure and a person who takes such action commits an offence and is liable-

- (a) on summary conviction, to a fine of twenty thousand dollars, or imprisonment for a term of two years or to both; or
 - (b) on conviction on indictment, to a fine or to imprisonment for a term of five years or to both such fine and imprisonment.
- (2) It is a defence in a proceeding for an offence against subsection (1) if-
- (a) the designated authority, at the application of the person who took the detrimental action, determined that the disclosure is not a protected disclosure; and
 - (b) at the time the person took the detrimental action, the person knew of that determination.

Detrimental action against an employee

15. An employee who is dismissed as a consequence of seeking to make, making or intending to make a protected disclosure, shall be treated as being unfairly dismissed.

Order for damages or reinstatement

16. (1) If a person is convicted or found guilty of an offence against section 14, the court may, in addition to imposing a penalty, order that, within a specified time, the offender pay to the person against whom the detrimental action was taken damages that the court considers appropriate to compensate the person for any injury, loss or damage.

- (2) If-
- (a) the employer of a person; or
 - (b) someone in the course of employment with, or while acting as an agent of, the employer of a person-

is convicted of an offence against section 14 in relation to detrimental action taken against that person, the court may, in addition to imposing a penalty and in addition to any damages ordered under subsection (1), order that the employer reinstate or re-employ the person in his former position or, if that position is not available, in a similar position.

(3) Without limiting the court's discretion, when making an order under subsection (1) or (2), the court may take into account any remedy granted under section 17 or any order made under section 19 in relation to the same conduct.

17. (1) A person who takes detrimental action against another person in reprisal for a protected disclosure is liable in damages for any injury, loss or damage to that other person.

Proceedings for damages
for reprisal

(2) The damages may be recovered in proceedings as for a tort in any court of competent jurisdiction.

(3) Any remedy that may be granted by a court with respect to a tort, including exemplary damages, may be granted by a court in proceedings under this section.

(4) The right of a person to bring proceedings for damages does not affect any other right or remedy available to the person arising from the detrimental action.

(5) Proceedings for damages under this section may be brought even if a prosecution in relation to the detrimental action has not been brought under section 14.

(6) Without limiting the court's discretion, when granting a remedy under this section, the court may take into account any order made under section 16 or 19 in relation to the same conduct.

18. (1) If a person in the course of employment with, or while acting as an employee or agent of a person ("the first-mentioned person") takes detrimental action against another person ("the second-mentioned person") in reprisal for a protected disclosure-

Vicarious liability of
employer

- (a) the first-mentioned person and the employee or agent are jointly and severally civilly liable for the detrimental action; and
- (b) a proceeding under section 19 may be taken against either or both.

(2) It is a defence to proceedings against the first-mentioned person under section 19 if that person proves, on the balance of probabilities, that it took reasonable precautions to prevent the employee or agent from taking detrimental action against the second-mentioned person in reprisal for the protected disclosure.

- Injunction or order
19. (1) If, on receipt of an application under section 20, the summary court is satisfied that a person has taken or intends to take detrimental action against another person in reprisal for a protected disclosure, the court may-
- (a) order the person who took the detrimental action to remedy that action; or
 - (b) grant an injunction in any terms the summary court considers appropriate.
- (2) The summary court, pending the final determination of an application under section 20, may-
- (a) make an interim order in the terms of subsection (1)(a); or
 - (b) grant an interim injunction.
- (3) Without limiting the discretion of the summary court, when granting a remedy under this section, the summary court may take into account any order made under section 16 or 17 in relation to the same conduct.
- Application for injunction or order
20. An application for an order or an injunction under section 19 may be made by-
- (a) a person who believes that detrimental action has been taken or may be taken against him in reprisal for a protected disclosure; or
 - (b) a prescribed person if the prescribed person believes that detrimental action has been taken or may be taken in reprisal for a protected disclosure the subject of which is a matter that the prescribed person is authorised to investigate under another Law.
- Complaints under Labour Law (2011 Revision)
21. (1) As an alternative to any other remedy an employee may have under this Part, an employee may file a complaint under this Law with the Director of Labour under the Labour Law (2011 Revision) on the ground that he has been subjected to detrimental action in contravention of section 14 and the Director of Labour shall upon receipt of such a complaint refer the matter forthwith to a labour tribunal.
- (2) A labour tribunal shall consider a complaint made under subsection (1) in accordance with this Law and procedures prescribed by regulations under this Law.
- (3) A hearing before the labour tribunal may be held in camera at the request of any party if the party establishes to the satisfaction of the labour tribunal that the circumstances of the case so require.

(4) On application the labour tribunal shall determine whether the complainant has been subject to detrimental action and, if it so determines, the labour tribunal may make an order granting a remedy to the complainant.

22. Where, upon hearing a complaint of detrimental action, a labour tribunal has determined that the employee has suffered detriment it may, by order, require the employer to take all necessary measures to-

Remedies for detrimental action

- (a) permit the employee to return to his duties;
- (b) reinstate the employee or pay compensation to the employee in lieu of reinstatement if, in the tribunal's opinion, the relationship of trust between the parties cannot be restored;
- (c) pay to the employee compensation in an amount not greater than the amount that, in the tribunal's opinion, is equivalent to the remuneration that would, but for the reprisal, have been paid to the employee;
- (d) rescind any measure or action, including any disciplinary action, and pay compensation to the employee in an amount not greater than the amount that, in the tribunal's opinion, is equivalent to any financial or other penalty imposed on the employee;
- (e) pay to the employee an amount equal to any expenses and any other financial losses incurred by the employee as a direct result of the reprisal; or
- (f) compensate the employee, by an amount of not more than ten thousand dollars, for any pain and suffering that the employee experienced as a result of the reprisal.⁵

23. A labour tribunal may, by order, require the designated authority, the employer or any person acting on their behalf, to take all necessary measures to take the disciplinary action in accordance with this Part, including termination of employment or revocation of appointment and the reporting of the matter to the police for investigation, against any person named in the application who was determined by it to have subjected the employee to detrimental action.

Disciplinary action against person who made reprisal

24. (1) An employee of a public entity who has made a protected disclosure and who believes on reasonable grounds that detrimental action will be, is being or has been taken against him in contravention of section 14 may request a transfer of employment in accordance with this section.

Transfer of employee

(2) Subject to subsection (3), a Chief Officer of a public entity may transfer an employee of the public entity who has made a protected disclosure to

⁵ See section 21(7) of Public Servants Disclosure Protection Act, Canada

duties within another public entity or a different area of the same public entity on terms and conditions of employment that are no less favourable overall.

- (3) An employee may only be transferred under subsection (2) if-
- (a) the employee requests or consents to the transfer;
 - (b) the Chief Officer of the public entity has reasonable grounds to suspect that detrimental action will be, is being or has been taken against the employee in contravention of section 14;
 - (c) the Chief Officer of the public entity considers that the transfer of the employee will avoid, reduce or eliminate the risk of detrimental action being taken against the employee; and
 - (d) the Chief Officer of the public entity to which it is proposed to transfer the employee consents to the transfer.

(4) The transfer of an employee under subsection (2) may be permanent or for a fixed term.

(5) The transfer of an employee under subsection (2) does not constitute a resignation or termination of employment and the post-transfer service is to be regarded as continuous with the pre-transfer service.

PART 4- RECEIVING, INVESTIGATING AND OTHERWISE DEALING WITH DISCLOSURES

Duty to receive disclosures and carry out investigations into disclosures

25. (1) Subject to section 6, every listed person shall receive the disclosure and take appropriate steps in accordance with this section to investigate or cause the disclosure to be investigated.

(2) Subject to the provisions of this Law, the listed person who receives a disclosure pursuant to subsection (1) shall-

- (a) receive and record the matter being disclosed; and
- (b) take steps, where the person considers that an investigation should be proceeded with and that the circumstances specified in section 26(2) do not apply, to cause the conduct disclosed to be investigated in accordance with subsection (3).

(3) The listed person, having considered that an investigation should be proceeded with, shall-

- (a) commence investigations forthwith and issue periodic updates on the investigation to the person making the disclosure, at intervals of thirty days;
- (b) ensure that investigations are carried out fairly;

- (c) review the results of investigations into disclosures and report the findings to the person who made the disclosure and to anybody appearing to the person receiving the disclosure to be appropriate (having regard to the relevant improper conduct and the area of responsibility of that body);
- (d) make recommendations regarding the measures to be taken to correct the improper conduct;
- (e) take steps to remedy the improper conduct, provide redress where appropriate, take disciplinary action where appropriate, and reduce the opportunity for recurrence of the conduct;
- (f) ensure that the rights of the person making the disclosure, any witness and any person alleged to be at fault are protected; and
- (g) receive, record, review, investigate and otherwise deal with complaints made in respect of detriment actions as a result of a disclosure made under this Law.

26. (1) A listed person to whom a disclosure is made in accordance with this Law, acting in good faith, may, in any of the circumstances set out in subsection (2) -

Right to refuse; duty to refer

- (a) refuse to deal with the disclosure, or commence an investigation into any improper conduct alleged in the disclosure; or
- (b) cease an investigation.

(2) The circumstances are-

- (a) the subject matter of the disclosure or the related investigation has been adequately dealt with, or could more appropriately be dealt with by another person;
- (b) the subject matter of the disclosure is frivolous or not sufficiently important to warrant an investigation; or
- (c) the circumstances surrounding the subject matter of the disclosure have changed (whether by reason of insufficiency of evidence or otherwise) so that it renders the investigation unnecessary.

(3) Where a listed person to whom a disclosure is made in accordance with this Law, refuses to carry out an investigation, the person shall provide reasons in writing to the person who made the disclosure within fifteen days of the refusal.

27. Any provision of an employment agreement shall be void and of no effect if the provision precludes an employee from making a protected disclosure or purports to require an employee to-

Provisions for non-disclosure in employment agreement void

- (a) agree to not make a disclosure under this Law during or after his period of employment;
- (b) refrain from instituting any proceedings pursuant to this Law; or
- (c) withdraw or abandon any disclosure made under this Law, or proceedings instituted pursuant to this Law.

PART 5 - OVERSIGHT FUNCTIONS

Oversight by designated authority

28. (1) The Deputy Governor shall, by order, designate an individual or public entity as the designated authority for the purposes of this Law.

(2) The designated authority shall be responsible for monitoring compliance with this Law and the provisions of Schedule 3 shall apply in relation thereto.

(3) In furtherance of its functions under subsection (2) the designated authority shall-

- (a) publish such procedural guidelines regarding the making, receiving and investigation of disclosures under this Law, as it considers appropriate;
- (b) provide such assistance as may be practicable to-
 - (i) any person who seeks to make a disclosure under this Law; or
 - (ii) any person who is a designated officer, employer or other person subject to the requirements of this Law;
- (c) on an ongoing basis, plan, implement and monitor public awareness programmes aimed at informing and educating employees, employers and the general public in the Islands about the making, in a responsible manner, of protected disclosures and about the procedures for receiving and investigating such disclosures;
- (d) review from time to time the procedures required under this Law to be established by any person;
- (e) review the implementation and operation of such procedures;
- (f) make recommendations to any person arising from any review under paragraph (c) or (d); and
- (g) where it considers it appropriate to do so-
 - (i) initiate an investigation;
 - (ii) take over an investigation; or
 - (iii) authorise a body to undertake in whole or in part an investigation.

(4) The designated authority shall, within six months after the end of each year or within such longer period as the Deputy Governor may in special circumstances approve, cause to be made and transmitted to the Minister a report dealing generally with the activities of the authority during the preceding year.

(5) The Deputy Governor shall cause a copy of the report to be tabled in the Legislative Assembly.

(6) The designated authority shall not disclose in a report under subsection (4) any information that would directly or indirectly identify any person who has made a disclosure under this Law, or a person about whose conduct a disclosure was made.

PART 6- MISCELLANEOUS

29. (1) A person commits an offence if he-

Further offences and penalties

- (a) being a listed person to whom a disclosure is made refuses, in bad faith, to receive a disclosure or carry out an investigation in relation to a disclosure;
- (b) makes a disclosure under this Law knowing that it contains a statement that is false or misleading, or reckless as to whether the statement is false or misleading; or
- (c) aids, abets, procures or conspires with any other person to contravene this Law.

(2) A person who commits an offence under subsection (1) is liable upon-

- (a) summary conviction, to a fine of ten thousand dollars, to imprisonment for a term of two years or to both; or
- (b) conviction on indictment, to a fine or to imprisonment for a term of three years or to both such fine and imprisonment.

(3) A person who, without reasonable excuse, fails to comply with a requirement imposed by the designated authority in the lawful exercise of the functions of the authority under this Law, commits an offence and is liable on summary conviction to a fine of five thousand dollars, to imprisonment for a term of three months or to both.

30. (1) Every listed person receiving, investigating or otherwise dealing with a disclosure under this Law shall regard and deal with as secret and confidential-

Obligation of secrecy and confidentiality

- (a) the identity of the person making the disclosure and any disclosure made; and

- (b) any statement given, or document, information or thing provided, to the person in the carrying out of an investigation,

except that any statement given, or document, information or thing provided, given in furtherance of an investigation or any legal or disciplinary proceedings shall not be regarded as being inconsistent with the obligation for secrecy and confidentiality.

(2) A listed person who contravenes subsection (1) commits an offence and is liable upon summary conviction to a fine of ten thousand dollars or to imprisonment for a term of two years or to both such fine and imprisonment.

Regulations

31. (1) The Cabinet may make regulations, subject to affirmative resolution, for the better carrying out of the purposes of this Law and without limiting the generality of the foregoing, may-

- (a) prescribe procedures to be applied in the making, receiving and investigation of disclosures;
- (b) prescribe forms to be used under this Law;
- (c) prescribe fees or other charges that may be imposed for services provided if any; and
- (d) make provision in relation to the operations of the designated authority.

(2) Regulations made under subsection (1) may provide for the imposition of penalties on summary conviction in a summary court of a fine of five thousand dollars or imprisonment for six months, or both such fine and imprisonment.

Obligations to report under any other Law

32. Nothing in this Law relating to the making of disclosures is to be construed as affecting any obligation of any person to disclose, report or otherwise give notice of any improper conduct under any other Law.

Cabinet may amend monetary penalties

33. The Cabinet may, by order subject to affirmative resolution, amend the monetary penalties specified in this Law.

Review of Law by legislative committee

34. (1) This Law shall be reviewed, from time to time, by a committee of the Legislative Assembly appointed by the Speaker for that purpose.

(2) The first such review shall be conducted not later than three years after the appointed day.

Law binds the Crown

35. This Law binds the Crown.

SCHEDULE 1

(Sections 2 and 6(2))

Prescribed persons to whom disclosures may be made

Attorney General

Auditor-General

Anti-Corruption Commission

Commissioner of Police

Commission for Standards in Public Life

Director of Public Prosecutions

Cayman Islands Monetary Authority

Complaints Commissioner

SCHEDULE 2

(Section 8(2)(b) and (3))

Information to be supplied in Disclosure

1. The full name, address and occupation of the person making the disclosure.
2. The nature of the improper conduct in respect of which the disclosure is made.
3. The name of the person alleged to have committed, to be committing or to be about to commit the improper conduct.
4. The time and place where the alleged improper conduct is taking place, took place or is likely to take place.
5. The full name, address and description of a person (if any) who witnessed the commission of the improper conduct.
6. Whether the person making the disclosure has made a disclosure of the same or of some other improper conduct on a previous occasion and if so, about whom and to whom the disclosure was made.

7. If the person is an employee making a disclosure about that person's employer or a fellow employee, whether the person making the disclosure remains in the same employment.

(Section 28(2))

SCHEDULE 3

Procedure upon Investigation by Designated Authority

Procedure in respect of investigations

1. (1) The designated authority may adopt whatever procedure the authority considers appropriate to the circumstances of a particular case and, subject to the provisions of this Law, may obtain information from such person and in such manner and make such enquiries as the authority thinks fit.

(2) Nothing in this Law shall be construed as requiring the designated authority to hold any hearing.

(3) Regulations made under this Law may prescribe the practice and procedure to be adopted at any hearing.

Evidence

2. (1) Subject to the provisions of sub-paragraph (5), the designated authority may at any time require any person who, in the opinion of the designated authority, is able to give any assistance in relation to an investigation in respect of any disclosure made pursuant to this Law, to furnish such information and produce any document or thing in connection with such investigation as may be in the possession or under the control of that person.

(2) Subject as aforesaid, the designated authority may summon before the authority and examine on oath-

- (a) any person who has made representations to the authority; or
- (b) any other person who, in the opinion of the designated authority, is able to furnish information relating to the investigation,

and such examination shall be deemed to be a judicial proceeding.

(3) For the purpose of an investigation under this Law, the designated authority shall have the same powers as a Judge of the Grand Court in respect of the attendance and examination of witnesses and the production of documents.

