

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

Bill

to provide a mechanism for public interest disclosures and protection of persons making such disclosures

WHEREAS it is expedient to provide a mechanism for public interest disclosures to prevent corruption and corrupt practices, protect persons making such disclosures and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

**CHAPTER I
PRELIMINARY**

1. Short title, extent and commencement.— (1) This Act may be called the Public Interest Disclosures Act, 2017.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.— In this Act, unless there is anything repugnant in the subject or context,—

(a) "Competent Authority" means the respective Head of the Organization;

(b) "complainant" means a person making complaint relating to disclosure under this Act;

(c) "disclosure" means a complaint relating to,—

(i) willful misuse of power or willful misuse of discretion by virtue of which substantial loss is caused to the Government or substantial wrongful gain accrues to the public servant or to third party; and

(ii) commission of or an attempt to commit an offence of corruption or corrupt practices as defined in the National Accountability Bureau Ordinance, 1999 (XVIII of 1999) or any other law relating to

statutory discretion exercised in discharge of duty by the employee or person concerned.

6. Exemption from disclosure.— Disclosure shall not be made if the information,-

- (i) is likely to prejudicially affect,—
 - (a) the sovereignty and integrity of Pakistan;
 - (b) the security, strategic or economic interests of the Pakistan; or
 - (c) relations with foreign states;
- (ii) may lead to incitement to offence;
- (iii) contains Cabinet or Cabinet Committees papers including records of deliberations of the Cabinet Ministers, secretaries and other offices except as permitted by the Cabinet Secretary;
- (iv) has been expressly forbidden to be published by a court or tribunal, or if the disclosure of information may result in contempt of court;
- (v) cause a breach of privilege of Parliament or Provincial Assembly;
- (vi) relates to trade secrets, intellectual property (and such disclosure would harm a competitor), except if such information is permitted under the law relating to right of information;
- (vii) is available to the person making the disclosure in his fiduciary capacity, except if such information is permitted under the law relating to right of information;
- (viii) is received in confidence from a foreign government;
- (ix) impede the process of investigation or apprehension or prosecution of offenders;
- (x) endanger the life or physical safety of a person, or identify the source of information given in confidence for law enforcement or security purposes; and
- (xi) contains disclosure of personal information and it has no relationship with any public interest or if it causes unwarranted invasion of privacy, except if it is permitted under the law relating to right of information.

CHAPTER III
COMPETENT AUTHORITY

7. Powers of Competent Authority.— (1) For the purpose of inquiry (including the preliminary inquiry), the Competent Authority shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents; and
- (f) such other matters as may be prescribed.

(2) The Competent Authority shall be deemed to be a civil court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1898 (Act V of 1898), and every proceeding before the Competent Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and section 196 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

(3) No claim for any privilege etc., shall be accepted in a proceeding under this Act.

(4) The Competent Authority, shall take all necessary steps to protect the disclosure of identity of the Complainant while proceeding under this Act.

8. Organizations, etc., to establish systems.— All organization shall establish proper and adequate systems for dealing with inquiry and processing of disclosures.

9. All authorities to assist Competent Authority.— For the purpose of making discreet inquiry or obtaining information from the organization concerned, the Competent Authority may take assistance of the Police authorities or any other authority or agency as may be considered necessary, to render necessary assistance to complete the inquiry within the prescribed time pursuant to the

disclosure received by the Competent Authority. A person who makes disclosure shall also assist in the inquiry under this Act.

CHAPTER IV

PROTECTION OF COMPLAINANT AND WITNESSES

10. Protection against adverse actions etc.—(1) The Government shall ensure that neither any adverse action shall be taken against a Complainant nor shall he be victimized by initiation of any proceedings or otherwise merely on the ground that he made a disclosure or rendered assistance in inquiry under this Act. A person shall be considered victimized if,-

- (i) dismissed;
- (ii) suspended;
- (iii) denied promotion;
- (iv) demoted;
- (v) made redundant;
- (vi) harassed;
- (vii) intimidated;
- (viii) threatened with any of the matters set out in (i) to (vii);
and
- (ix) subjected to a discriminatory or other adverse measure by the employer or a fellow employee.

(2) If any person is being victimized or likely to be victimized on the basis of his filing a complaint or making a disclosure or rendering assistance in inquiry under this Act, he may make an application to the Competent Authority seeking redress in the matter, and such authority shall take such action, as deemed fit and may give suitable directions to the concerned public servant or the Organization, as the case may be, to protect him from being victimized or avoid his victimization.

(3) The Competent Authority shall, before giving any such direction to the Organization, give an opportunity of hearing to the complainant and the Organization, as the case may be:

Provided that in any such hearing, the burden of proof that the alleged action on the part of the Organization is not victimisation, shall lie on the Organization.

(4) The Organization shall be bound by every direction given under sub-section (3).

(5) Notwithstanding anything contained in any other law for the time being in force, the power to give directions under sub-