



THE PARLIAMENT OF  
TRINIDAD AND TOBAGO

**BILL ESSENTIALS**

Date introduced: 9 April, 2018

House: House of Representatives

Minister: Attorney General

HOR Bill No: 8 of 2018

Links: The links to the Bill, and its progress can be found on the Bill's home page through the Parliament's website, [www.ttparliament.org](http://www.ttparliament.org)

# BILL ESSENTIALS

BILL ESSENTIALS NO. 13, 2018–19

26 APRIL 2019

## The Whistleblower Protection Bill, 2018

### TABLE OF CONTENTS

BACKGROUND .....	2
KEY FEATURES OF THE BILL .....	2
INTERPRETATION .....	2
Disclosure of Improper Conduct .....	4
Protected Disclosure .....	4
Information protected by Legal Professional Privilege .....	4
Anonymous Disclosures .....	5
Appointment of Whistleblowing Reporting Officers .....	5
Internal Procedures for receiving and dealing with Disclosures .....	5
Notice to Whistleblower .....	5
Establishment of Whistleblowing Reports Unit .....	6
External Disclosure made to the Whistleblowing Reports Unit .....	6
Reference of Information to another Authority .....	6
Annual Report to Parliament .....	7
Prohibition of Detrimental Action .....	7
Immunity from Criminal, Civil and Disciplinary Proceedings .....	7
No Immunity to Whistleblower if acted as Perpetrator or Accomplice .....	7
Prohibition of Disclosure of Information to Identify the Whistleblower .....	7
Civil Remedies for Detrimental Action .....	8
Offences .....	8
Conflict between Contract of Service and Provisions of proposed Act .....	9
Amendment of Schedule .....	9
Regulations .....	9
Whistleblower Protection Legislation in other jurisdictions .....	9
Comparative Legislation .....	11
References .....	17

## BACKGROUND

1. **The Whistleblower Protection Bill, 2018**<sup>1</sup> (hereinafter referred to as “**the Bill**”) aims to combat corruption and other wrongdoings by encouraging and facilitating disclosures of improper conduct in the public and private sector. The Bill also seeks to protect persons making disclosures from detrimental action, and regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct.
2. The Bill was introduced in the House of Representatives by the Attorney General on April 9, 2018.
3. During the First Session Eleventh Parliament, the **Whistleblower Protection Bill 2015**, was considered by a Joint Select Committee<sup>2</sup>.

## KEY FEATURES OF THE BILL

4. The **Whistleblower Protection Bill, 2018** is inconsistent with **Sections 4 and 5** of the **Constitution of the Republic of Trinidad and Tobago** and would therefore be required to be passed by a special majority of three-fifths of the members of each House.
5. **Clause 2** of the Bill provides for the Act to come into effect on such date as fixed by the President by Proclamation.

## INTERPRETATION

6. **Clause 4** of the Bill defines certain terms used in the Bill *inter alia*:
  - **“disclosure”** which is defined as a *revelation of information by a person which shows or potentially shows that improper conduct has occurred, is occurring or is likely to occur;*
  - **“whistleblower”** which is defined as *any person who makes a disclosure to a whistleblowing reporting officer or a whistleblowing reports unit, as the case may be, whether it qualifies as a protected disclosure or not under this Act;*
  - **“detrimental action”** which is defined as *any act or omission that results in a person being—*
    - (a) *unfairly subject to disciplinary action;*
    - (b) *unfairly dismissed, suspended, or demoted;*
    - (c) *harassed, intimidated or victimized;*
    - (d) *transferred against his will;*
    - (e) *unfairly refused transfer or promotion;*

<sup>1</sup> <http://www.ttparliament.org/publications.php?mid=28&id=807>

<sup>2</sup> [http://www.ttparliament.org/committee\\_business.php?mid=19&id=245&sid=71](http://www.ttparliament.org/committee_business.php?mid=19&id=245&sid=71)

- (f) subjected to a term or condition of employment or retirement from employment, that is altered to his disadvantage;
- (g) provided with an adverse reference or refused a reference;
- (h) unfairly denied appointment to any employment, profession or office;
- (i) threatened with any of the actions specified in paragraphs (a) to (h);
- (j) otherwise adversely affected in respect of his employment, profession, office (including employment opportunities and job security); or
- (k) otherwise suffering injury, loss or damage in relation to his employment, family life, career, profession, trade or business.

- **“external disclosure”** which is defined as a disclosure made to a Whistleblowing Reports Unit whereas **“internal disclosure”** is defined as a disclosure made to a whistleblowing reports officer;
- **“improper conduct”** which is defined as any—
  - (a) criminal offence;
  - (b) failure to carry out a legal obligation;
  - (c) conduct that is likely to result in a miscarriage of justice;
  - (d) conduct that is likely to threaten the health or safety of a person;
  - (e) conduct that is likely to threaten or damage the environment;
  - (f) conduct that shows gross mismanagement, impropriety or misconduct in the carrying out of any activity that involves the use of public funds;
  - (g) act of reprisal against, or victimization of, a whistleblower or person related to, or associated with a whistleblower.
- **“designated authority”** which is defined as the office or body listed in the Schedule; the twenty-one (21) bodies listed in the Schedule are as follows:
  - ❖ Auditor General’s Department
  - ❖ Board of Inland Revenue
  - ❖ Bureau of Standards of Trinidad and Tobago
  - ❖ Central Bank of Trinidad and Tobago
  - ❖ Children’s Authority of Trinidad and Tobago
  - ❖ Customs and Excise Division
  - ❖ Elections and Boundaries Commission
  - ❖ Environmental Management Authority
  - ❖ Equal Opportunity Commission
  - ❖ Fair Trading Commission
  - ❖ Financial Intelligence Unit of Trinidad and Tobago
  - ❖ Integrity Commission of Trinidad and Tobago
  - ❖ National Physical Planning Authority of Trinidad and Tobago
  - ❖ Occupational Safety and Health Agency
  - ❖ Occupational Safety and Health Authority

- ❖ Office of Procurement Regulation
- ❖ Office of the Director of Public Prosecutions
- ❖ Office of the Ombudsman of Trinidad and Tobago
- ❖ Regulated Industries Commission
- ❖ Trinidad and Tobago Police Service
- ❖ Trinidad and Tobago Securities and Exchange Commission

7. **Clause 4** also defines “*employee*”, “*employer*” and “*organisation*”.

#### DISCLOSURE OF IMPROPER CONDUCT

8. **Clause 7** of the Bill enables an employee of an organisation to make a disclosure of improper conduct within the organisation to a whistleblowing reporting officer or a Whistleblowing Reports Unit of a designated authority.
9. The clause provides that a disclosure may be made orally or in writing and must be based on an employee having reasonable grounds to believe that improper conduct has occurred, is occurring or is likely to occur in the organisation.
10. **Clause 7** also provides that a disclosure made by a Member of Parliament does not amount to a breach of parliamentary privilege.

#### PROTECTED DISCLOSURE

11. **Clause 8** of the Bill specifies the conditions that must be complied with for any disclosure to be protected.
12. A disclosure is a protected if it is made in good faith or is not made for purposes of personal gain. Disclosures are also protected if the whistleblower reasonably believes that the information disclosed, and any allegation contained in it, are substantially true and tends to show that his employer, another employee of his employer or a person acting on his employer’s behalf has engaged, is engaging or is preparing to engage in improper conduct.
13. A disclosure is not protected if the whistleblower knowingly or ought to have known that the information disclosed was false.

#### INFORMATION PROTECTED BY LEGAL PROFESSIONAL PRIVILEGE

14. **Clause 9** of the Act does not authorise the disclosure of information that is protected by legal professional privilege and the disclosure of such information will not be a protected disclosure if it is made by a person to whom the information has been disclosed in the course of obtaining legal advice.

## ANONYMOUS DISCLOSURES

15. Under **Clause 10**, an anonymous disclosure would not be a protected disclosure. However, if the identity of the person making an anonymous disclosure becomes known, the disclosure shall be deemed to be a protected disclosure as if it had not been made anonymously.
16. In relation to an anonymous disclosure, a whistleblowing reporting officer or whistleblowing reports unit can receive and process an anonymous disclosure and take the disclosure into account in determining whether improper conduct has occurred. However, if after consideration of all relevant circumstances the whistleblowing reporting officer or whistleblowing reports unit determines that information in an anonymous disclosure is likely to be defamatory or libelous, then such information shall be rejected. A record the disclosure shall be kept in the event that the person who discloses the information becomes known and that person may be liable to criminal or civil proceedings.

## APPOINTMENT OF WHISTLEBLOWING REPORTING OFFICERS

17. **Clause 11** of the Bill mandates employers to appoint whistleblowing reporting officers to receive and process internal disclosures of improper conduct within the employer's company or organisation. Whistleblowing reporting officers would also determine whether an internal disclosure should be referred to a designated authority or through its whistleblowing reports unit, for further investigation.

## INTERNAL PROCEDURES FOR RECEIVING AND DEALING WITH DISCLOSURES

18. **Clause 12** of the Bill establishes a requirement for an employer to establish and publish operational internal procedures for dealing with disclosures.
19. These internal procedures must identify the whistleblowing reporting officer within the organisation to whom an internal disclosure may be made.

## NOTICE TO WHISTLEBLOWER

20. Pursuant to **Clause 13** whistleblowing officers are required to notify whistleblowers within thirty (30) days after receiving an internal disclosure of its status, unless it is apparent that action has been taken to rectify or address the improper conduct disclosed.
21. In addition, a whistleblowing reporting officer can refer an internal disclosure to a designated authority through its whistleblowing reports unit for investigation if the internal disclosure is classified as a protected disclosure and leads to the detection of a criminal offence or other breach of the law.
22. The whistleblowing reporting officer is strictly prohibited from revealing the identity of a whistleblower without his prior written consent.

## ESTABLISHMENT OF WHISTLEBLOWING REPORTS UNIT

23. **Clause 14** of the Bill requires a designated authority to establish a whistleblowing reports unit consisting of a director and other such officers as required for the efficient performance and functioning of the unit.
24. Each unit within a designated authority has responsibility for receiving and processing external disclosures from whistleblowing reporting officers on matters within its purview.

## EXTERNAL DISCLOSURE MADE TO WHISTLEBLOWING REPORTS UNIT

25. **Clause 15** of the Bill establishes the circumstances under which an employee of an organisation may make external disclosures to a whistleblowing reports unit as follows:
  - the organisation has no internal procedures established and published for receiving and dealing with disclosures relating to the organisation;
  - the employee has made an internal disclosure and has not been informed of the status of the disclosure;
  - it is reasonably evident to the employee that there has been no action or recommended action in relation to the disclosure within a reasonable time since the making of the disclosure;
  - the employee believes on reasonable grounds—
    - ❖ the whistleblowing reporting officer is, or may be involved in the alleged improper conduct or has a relationship or association with a person engaged or believed to be engaged in improper conduct;
    - ❖ the head or senior officer of the organisation is, or may be involved in the improper conduct alleged in the disclosure;
    - ❖ immediate reference is justified by the urgency of the matter;
    - ❖ he will be subjected to detrimental action by his employer if he makes an internal disclosure; or
    - ❖ it is likely that evidence relating to the improper conduct will be concealed or destroyed if he makes an internal disclosure.

## REFERENCE OF INFORMATION TO ANOTHER AUTHORITY

26. **Clause 16** provides for the referral of protected disclosures by a whistleblowing reports unit to another whistleblowing reports unit within thirty (30) days and with the consent of the whistleblower if it is determined that such disclosure can be better processed by the other whistleblowing reports unit.
27. Upon referral of the protected disclosure to the other whistleblowing reports unit, the whistleblower's identity should not be disclosed except with his prior expressed consent in

writing. Such disclosure shall continue to remain a protected disclosure despite it being referred to another whistleblowing reports unit.

### ANNUAL REPORT TO PARLIAMENT

28. **Clause 17** of the Bill requires the director of a whistleblowing reports unit to submit annual reports by 31<sup>st</sup> March each year, to the Minister on the activities of the whistleblowing reports unit during the preceding year. Such reports must not contain particulars of any disclosures filed with the unit.

29. The Minister shall be required to lay the report in Parliament by 31<sup>st</sup> May in each year.

### PROHIBITION OF DETRIMENTAL ACTION

30. **Clause 18** of the Bill provides immunity to a whistleblower from any detrimental action due to having made a protected disclosure, subject to any exceptions provided for in this proposed Act and despite the existence of any prohibition or restriction on the disclosure of information under any written or rule of law, contract, oath or practice.

### IMMUNITY FROM CRIMINAL, CIVIL AND DISCIPLINARY PROCEEDINGS

31. **Clause 19** grants a whistleblower who has made a protected disclosure immunity from all criminal, civil and disciplinary proceedings.

### NO IMMUNITY TO WHISTLEBLOWER IF ACTED AS PERPETRATOR OR ACCOMPLICE

32. **Clause 20** of the Bill provides that immunity from criminal, civil and disciplinary proceedings (**Clause 19**) does not prevent the institution of criminal proceedings against a whistleblower, if he acted as either the perpetrator or an accomplice in the improper conduct disclosed.

33. In respect to criminal proceedings, if a whistleblower acted as either the perpetrator or an accomplice in the improper conduct disclosed, a court in making its decision shall take into account the fact that the disclosure was made by the whistleblower and any assistance rendered to police to apprehend other persons involved in the commission of the offence.

34. In respect to civil proceedings, a whistleblower who acted as either the perpetrator or an accomplice in the improper conduct disclosed, a court in determining if the whistleblower is liable for damages may only mandate partial payment for the damages he would have caused and not hold him liable jointly and severally with others.

### PROHIBITION OF DISCLOSURE OF INFORMATION TO IDENTIFY THE WHISTLEBLOWER

35. **Clause 21** of the Bill requires that any whistleblowing reporting officer or whistleblowing reports unit who receives a protected disclosure shall not disclose information which identifies or may lead to the whistleblower's identification without the whistleblower's expressed written consent to such disclosure.

36. This clause also seeks to govern how the contents of a protected disclosure should be shared and handled and exactly how the relevant investigations are to be conducted by the different departments within the whistleblowing reports unit.

**CIVIL REMEDIES FOR DETRIMENTAL ACTION**

37. **Clause 22** of the Bill provides for civil remedies, by virtue of application to the High Court for relief, where detrimental action has been taken, or is likely to be taken against a whistleblower (**Clause 18**).

38. **Clause 22** also provides for the different types of relief that the Court may award which includes an injunction, interim order, award of damages and any other relief that the court deems fit as a result of the detrimental action.

**OFFENCES**

39. The following offences are created under **Clauses 23, 24, 25** and **26** of the Bill:

Clause	Offence	Penalty
23 Certain Offences	Knowingly preventing, restraining or restricting any person from making an internal or external disclosure.	On summary conviction: a fine of <b>fifteen thousand dollars (\$15,000.00)</b> and imprisonment for <b>two (2) years</b>  <b><u>OR</u></b>  On conviction on indictment: a fine of <b>fifty thousand dollars (\$50,000.00)</b> and imprisonment of <b>ten (10) years</b> .
	Knowingly intimidating any person who intends to make an internal or external disclosure or who has made a protected disclosure.	
	Knowingly inducing any person by threats, promises or otherwise to contravene the Act.	
	Being an employer, knowingly subjecting any person to detrimental action as a consequence of the person making a protected disclosure.	
	Purporting to make a disclosure under the Act knowing that it contains a statement that is false or misleading, or being reckless as to whether the statement is false or misleading.	
24 Obligation for Secrecy and Confidentiality	A person receiving, investigating or otherwise dealing with disclosure under the Act who does not deal with such disclosure, or the identity of the person making the disclosure or any	On summary conviction: A fine of <b>six hundred thousand dollars (\$600,000.00)</b> and to imprisonment for <b>two (2) years</b> .



	supporting documents etc. provided as secret and confidential.	
25 Penalty for obstructing whistleblowing reporting personnel	Obstructing a whistleblowing reporting officer or director or other officer of a whistleblowing reports unit in the performance of his duties under this proposed Act.	On summary conviction: A fine of <b>fifteen thousand dollars (\$15,000.00)</b> and to imprisonment for <b>two (2) years</b> .
26 Penalty for destroying, falsifying etc. document etc.	A person who knowingly destroys, mutilates, alters, falsifies or conceals any document or thing that is relevant to a disclosure or the processing of a disclosure under this proposed Act.	On summary conviction: A fine of <b>thirty thousand dollars (\$30,000.00)</b> and to imprisonment for <b>five (5) years</b> .

#### CONFLICT BETWEEN CONTRACT OF SERVICE AND PROVISIONS OF PROPOSED ACT

40. **Clause 27** of the Bill seeks to void any provision contained in any contract of service or other agreement between an employer and employee to the extent that it purports to exclude any provision of this proposed Act or to preclude an employee from making a protected disclosure.

#### AMENDMENT OF SCHEDULE

41. **Clause 28** of the Bill authorises the Minister to amend the Schedule subject to the affirmative resolution of Parliament.

#### REGULATIONS

42. **Clause 29** of the Bill enables the Minister (National Security) to make Regulations subject to the affirmative resolution of Parliament to bring this proposed Act into effect.

43. These Regulations are subject to affirmative resolution of Parliament and persons who breach may be punishable by a fine of **fifty thousand dollars (\$50,000.00)** and imprisonment for **two (2) years**.

### WHISTLEBLOWER PROTECTION LEGISLATION IN OTHER JURISDICTIONS

#### **Sectoral Scope**

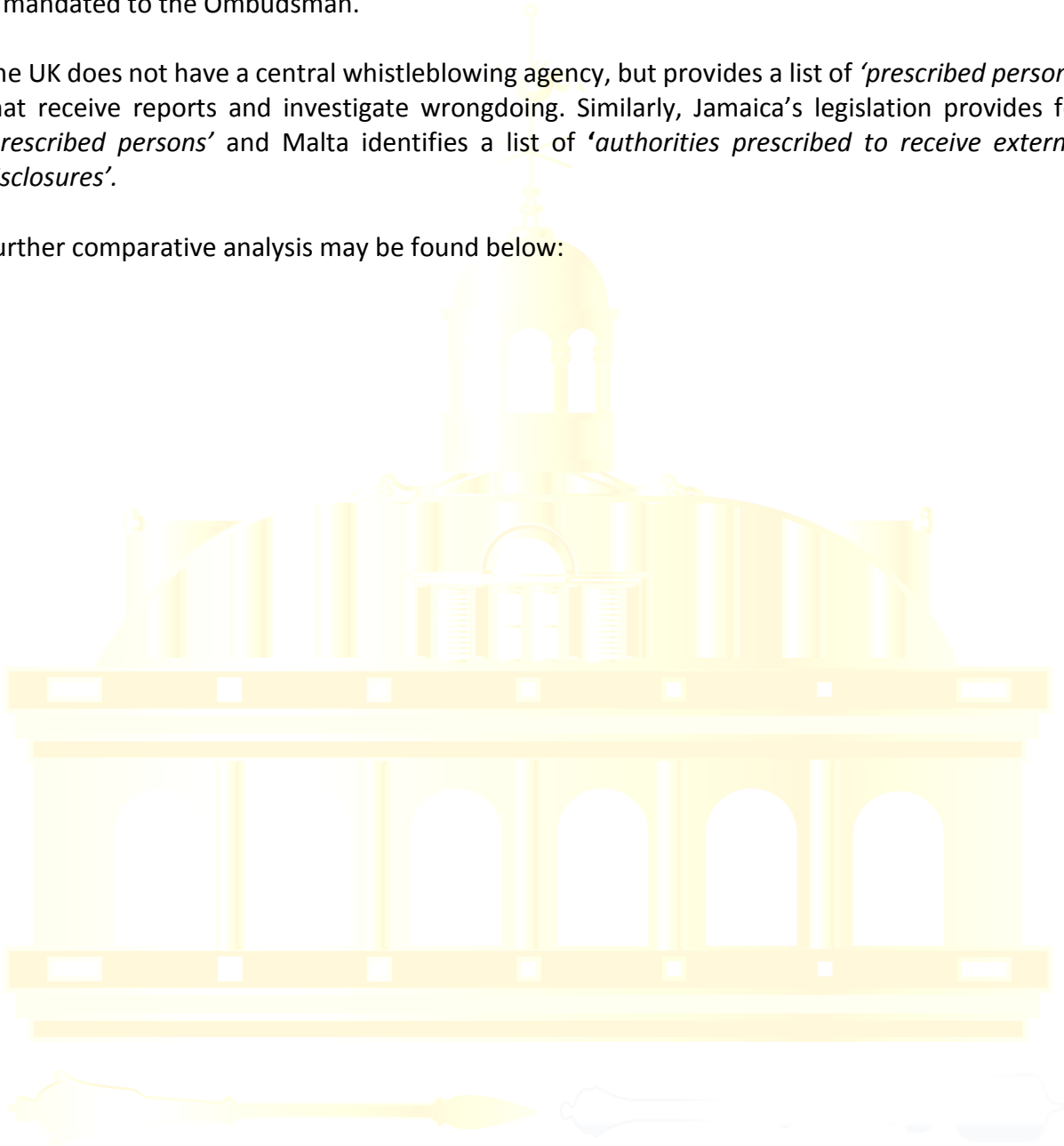
With regard to sectoral scope, whilst some countries have separate whistleblowing regulations for the public and private sector (Australia, USA) or whistleblowing provisions that only cover the public sector (Belgium), there is a clear trend to install stand-alone whistleblowing legislation covering both public and private sectors (Jamaica, New Zealand, Ireland, UK).

### **Whistleblower Agency**

Some countries (e.g. USA) have chosen to install governmental whistleblowing agencies that advise or support whistleblowers, investigate alleged wrongdoing and/or alleged retaliation, offer protection, and promote the prevention of wrongdoing. In Australia and Belgium, the role is mandated to the Ombudsman.

The UK does not have a central whistleblowing agency, but provides a list of *'prescribed persons'* that receive reports and investigate wrongdoing. Similarly, Jamaica's legislation provides for *'prescribed persons'* and Malta identifies a list of *'authorities prescribed to receive external disclosures'*.

Further comparative analysis may be found below:



COMPARATIVE LEGISLATION

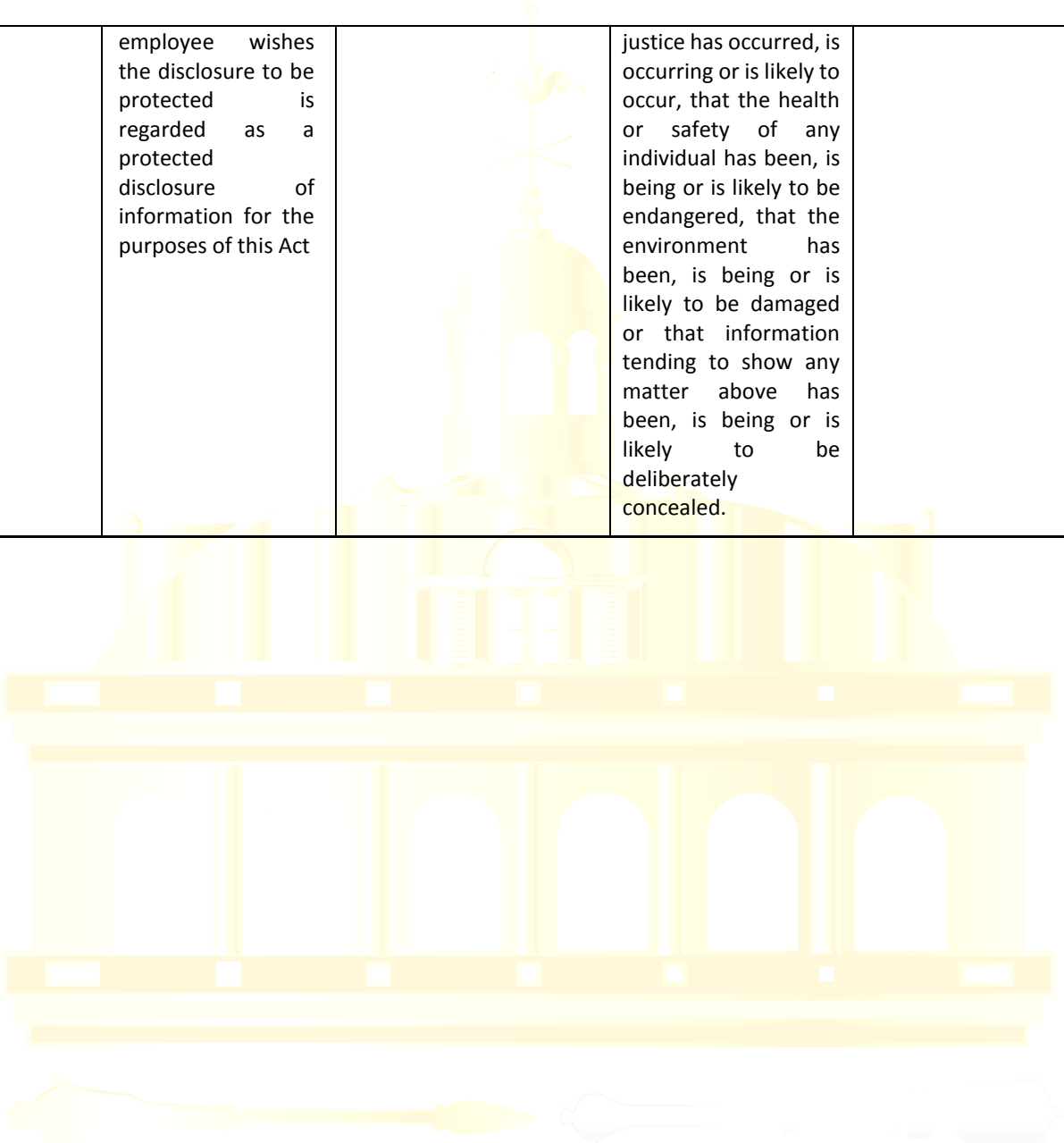
	JAMAICA	NEW ZEALAND	CANADA	UNITED KINGDOM	MALAYSIA	MALTA
	The Protected Disclosures Act, 2011	Protected Disclosures Act, 2000	The Public Interest Disclosure (Whistleblower Protection) Act (Alberta), 2012	Public Interest Disclosure Act, 1998	Whistleblower Protection Act 711, 2010	Protection of the Whistleblower Act, 2013
Aim/Purpose of the Act	<ul style="list-style-type: none"> <li>To encourage and facilitate the making by employees of specified disclosures of improper conduct in the public interest;</li> <li>To regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct;</li> <li>To protect employees who make specified disclosures from being subjected to occupational detriment and for related matters.</li> </ul>	<ul style="list-style-type: none"> <li>To promote the public interest by facilitating the disclosure and investigation of matters of serious wrongdoing in or by an organisation and by protecting employees who, in accordance with the Act, make disclosures of information about serious wrongdoing in or by an organisation</li> </ul>	<ul style="list-style-type: none"> <li>Facilitate the disclosure and investigation of significant and serious matters in or relating to departments, public entities, offices or prescribed service providers, that an employee believes may be unlawful, dangerous to the public or injurious to the public interest;</li> <li>Protect employees who make those disclosures from retaliatory actions;</li> <li>Manage, investigate and make recommendations respecting disclosures of wrongdoings and reprisals;</li> </ul>	<ul style="list-style-type: none"> <li>To protect individuals who make certain disclosures of information in the public interest;</li> <li>To allow such individuals to bring action in respect of victimisation and for connected purposes.</li> </ul>	<ul style="list-style-type: none"> <li>To combat corruption and other wrongdoings by encouraging and facilitate disclosures of improper conduct in the public and private sector to protect persons making those disclosures from detrimental action, to provide for the matters disclosed to be investigated and dealt with and to provide for other related matters.</li> </ul>	<ul style="list-style-type: none"> <li>To provide procedures for employees in both the private sector and the public administration may disclose information regarding improper practices by their employers or other employees in the employ of their employers and to protect employees who make said disclosures from detrimental action.</li> </ul>

			<ul style="list-style-type: none"> <li>Provide for the determination of appropriate remedies concerning reprisals; and</li> </ul>			
Disclosures made in good faith	<ul style="list-style-type: none"> <li>Disclosures are not protected under the Act unless it is made in good faith and in the public interest.</li> </ul>		<ul style="list-style-type: none"> <li>Disclosures must be made in good faith by an employee in accordance with this Act</li> </ul>	<ul style="list-style-type: none"> <li>Any qualifying disclosure is made if the worker makes the disclosure in good faith</li> </ul>		<ul style="list-style-type: none"> <li>A disclosure is a protected disclosure if it is made in good faith.</li> </ul>
Immunity	<ul style="list-style-type: none"> <li>The Act grants immunity to whistleblowers from civil and criminal proceedings.</li> </ul>	<ul style="list-style-type: none"> <li>The Act grants immunity from civil and criminal proceedings to persons who make protected disclosures or persons who refer a protected disclosure of information to an appropriate authority for investigation.</li> </ul>			<ul style="list-style-type: none"> <li>A whistleblower shall, upon receipt of the disclosure of improper conduct by any enforcement agency be conferred with whistleblower protection including protection of confidential information, immunity from civil and criminal action and protection against detrimental action.</li> </ul>	<ul style="list-style-type: none"> <li>Nothing shall prevent the institution of criminal proceedings against the whistleblower where the said whistleblower was the perpetrator or an accomplice in an improper practice which constitutes a crime or contravention under any applicable law prior to its disclosure.</li> </ul>
Legal Professional Privilege	<ul style="list-style-type: none"> <li>Information protected by legal professional privilege can be the subject of a protected disclosure even if made by a person to whom such information was disclosed to in the course of obtaining legal advice.</li> </ul>	<ul style="list-style-type: none"> <li>Information protected by legal professional privilege is not protected disclosure.</li> </ul>	<ul style="list-style-type: none"> <li>The Act prohibits the disclosure of Information protected by legal professional privilege. Parliamentary privileges and immunities are also preserved</li> </ul>			<ul style="list-style-type: none"> <li>Nothing in this Act authorises a person to disclose information protected by legal professional privilege and disclosure of such information is not a protected disclosure for the purposes of this Act.</li> </ul>

<p><b>Parliamentary Privilege</b></p>			<ul style="list-style-type: none"> <li>▪ Parliamentary privileges and immunities are also preserved under this Act.</li> </ul>		<ul style="list-style-type: none"> <li>▪ A disclosure made in relation to a member of Parliament or State Legislative Assembly shall not amount to a breach of privilege.</li> </ul>	
<p><b>Offences</b></p>	<ul style="list-style-type: none"> <li>▪ The Act creates offences in relation to:             <ul style="list-style-type: none"> <li>• Preventing, restraining or restricting any employee from making a protected disclosure;</li> <li>• Intimidating any employee who has made or intends to make a protected disclosure;</li> <li>• Inducing any person by threats, promises or otherwise to contravene the Act;</li> <li>• Being an employer and subjecting an employee or former employee to occupational detriment as a consequence of the employee or former employee making a protected disclosure; and</li> </ul> </li> <li>▪ Being an employee, and purporting to make a disclosure under the Act knowing that it</li> </ul>		<ul style="list-style-type: none"> <li>▪ The Act creates offences in relation to making false statements, willfully obstructs, counsels or directs a person to willfully obstruct a designated officer, destroys, falsifies or conceals any relevant document.</li> </ul>		<ul style="list-style-type: none"> <li>▪ The Act creates offences in relation to:             <ul style="list-style-type: none"> <li>• Wilfully making a false statement;</li> <li>• Obstructing any authorized officer in the performance of his duties;</li> <li>• Destroying, mutilating, altering, falsifying or concealing a document or thing;</li> <li>• Abetting the commission of or attempting to commit any offence or engaging in any preparatory act.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ The Act creates offences in relation to:             <ul style="list-style-type: none"> <li>• Using or threatening to use violence against such person, their spouse, children or member of their household or causing or threatening to cause damage to property;</li> <li>• Persistently following such other person;</li> <li>• Watching or besetting the house or other place where such person resides;</li> <li>• Deprives such person, or in any matter hinders him in the use of, any tools, clothing or other property owned or used by such other person.</li> </ul> </li> </ul>

	<p>contains a statement that is false or misleading, or reckless as to whether the statement is false or misleading.</p> <ul style="list-style-type: none"> <li>▪ The Act also makes it an offence to:</li> <li>▪ Employer: to refuse in bad faith, to receive a disclosure or carry out an investigation in relation to a disclosure;</li> <li>▪ Aid, abet, procure or conspire with any other person to contravene the Act</li> </ul>					
<p><b>Definition of Improper Conduct</b></p>	<ul style="list-style-type: none"> <li>▪ Improper Conduct means any- criminal offence, failure to carry out a legal obligation, conduct that is likely to result in a miscarriage of justice, conduct that is likely to threaten the health or safety of a person, conduct that is likely to threaten or damage the environment, conduct that shows gross mismanagement, impropriety or misconduct in the carrying out of any activity that involves the use of public funds, act of reprisal against or victimization of an employee, conduct that</li> </ul>				<ul style="list-style-type: none"> <li>▪ Improper Conduct means any conduct which if proved constitutes a disciplinary offence or a criminal offence.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Improper Practice means an action or a series of actions whereby a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject, the health or safety of any individual has been, is being or is likely to be endangered; or the environment has been, is being or is likely to be damaged, a corrupt practice has occurred or is likely to occur or to have occurred, a criminal</li> </ul>

	tends to show unfair discrimination on the basis of gender, race, place of origin, social class, colour, religion or political opinion or wilful concealment of any act as described above.					offence has been committed, is being committed or is likely to be committed, a miscarriage of justice that has occurred, is occurring or is likely to occur, bribery has occurred or is likely to occur or to have occurred, information showing any matter above has been, is being or is likely to be deliberately concealed.
Definition of Protected Disclosure	<ul style="list-style-type: none"> <li>Protected Disclosure means a disclosure made by an employee to— an employer, a Minister, a prescribed person, a person other than a person mentioned above, an attorney-at-law and a Minister or the Prime Minister.</li> </ul>	<ul style="list-style-type: none"> <li>Any disclosure made where the information is about serious wrongdoing in or by that organisation, where the employee believes on reasonable grounds that the information is true or likely to be true, where the employee wishes to disclose the information so that the serious wrongdoing can be investigated and where the</li> </ul>		<ul style="list-style-type: none"> <li>Protected Disclosure means a qualifying disclosure which is made by a worker to his employer, legal adviser, Minister of the Crown or prescribed person that a criminal offence has been committed, is being committed or is likely to be committed, that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject, that a miscarriage of</li> </ul>		<ul style="list-style-type: none"> <li>Protected Disclosure means an internal disclosure or an external disclosure of information, made in writing or in any prescribed format.</li> </ul>

		employee wishes the disclosure to be protected is regarded as a protected disclosure of information for the purposes of this Act		justice has occurred, is occurring or is likely to occur, that the health or safety of any individual has been, is being or is likely to be endangered, that the environment has been, is being or is likely to be damaged or that information tending to show any matter above has been, is being or is likely to be deliberately concealed.		
--	--	--	---	---	--	--



## REFERENCES

### COMPARATIVE LEGISLATION

**JAMAICA: The Protected Disclosures Act, 2011**

[http://www.japarliament.gov.jm/attachments/341\\_The%20Protected%20Disclosures%20Act,%202011.pdf](http://www.japarliament.gov.jm/attachments/341_The%20Protected%20Disclosures%20Act,%202011.pdf)

**NEW ZEALAND: Protected Disclosures Act, 2000**

<http://www.legislation.govt.nz/act/public/2000/0007/latest/whole.html#DLM53466>

**CANADA: The Public Interest Disclosure (Whistle blower Protection) Act (Alberta), 2012**

<http://www.qp.alberta.ca/documents/Acts/p39p5.pdf>

**UNITED KINGDOM: Public Interest Disclosure Act, 1998**

[http://www.legislation.gov.uk/ukpga/1998/23/pdfs/ukpga\\_19980023\\_en.pdf](http://www.legislation.gov.uk/ukpga/1998/23/pdfs/ukpga_19980023_en.pdf)

**MALAYSIA: Whistleblower Protection Act 711, 2010**

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/106318/130371/F1610672104/MYS106318.pdf>

**MALTA: Protection of the Whistleblower Act, 2013**

<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=25151&l=1>

### RESOURCES

- **G20 Anti-Corruption Action Plan Protection of Whistleblowers**  
<https://www.oecd.org/g20/topics/anti-corruption/48972967.pdf>
- **Good Practice in Whistleblowing Protection Legislation (WPL)**  
<https://www.u4.no/publications/good-practice-in-whistleblowing-protection-legislation-wpl.pdf>
- **Making whistleblower protection work: elements of an effective approach**  
<https://www.cmi.no/publications/file/3197-making-whistleblower-protection-work.pdf>
- **Whistleblowers Protections: A Guide**  
<https://www.ibanet.org/Document/Default.aspx?DocumentUid=a8bac0a9-ea7e-472d-a48e-ee76cb3cdef8>



Legal Unit  
Parliament Secretariat

Parliament of the Republic of Trinidad and Tobago  
Level 3, Tower D,  
Port of Spain International Waterfront Centre  
#1A Wrightson Road, Port of Spain

April 26, 2019

**Disclaimer:** Bills Essentials are prepared to support the work of the Members of the Parliament of the Trinidad and Tobago and is not intended to address the specific circumstances of any particular individual. They are produced under time and resource constraints and aim to be available in time for debate in the Houses.

The views expressed in Bill Essentials do not reflect an official position of the Legal Unit, nor do they constitute professional legal opinion. Bill Essentials reflect the relevant legislation as introduced and do not canvass subsequent amendments or developments. To determine the official status of the Bill or follow its progress click here: <http://www.ttparliament.org/publications.php?mid=28&id=807>

