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## Bangladesh National Parliament

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Enacted by the Parliament, the following Act has received President's consent on 21 June, 2011 (7<sup>th</sup> Ashar, 1418) and the act is being published for the public awareness:-

### Act No. 7 of 2011

**An Act enacted to provide for legal protection to persons disclosing information relating to public interest and for making rules concerning other relevant affairs.**

WHEREAS it is expedient to provide for legal protection to the person disclosing information concerning public interest and for making rules concerning other relevant affairs;

It is hereby enacted as follows:

1. **Short title and commencement:** - (1) This Act may be called the Public-interest Information Disclosure Act (Provide Protection), 2011.

(2) It shall come into force at once.

2. **Definition:** - In this Act, unless there be something repugnant in the subject or context,—

(1) "**Competent Authority**" means the chief of any agency or chief or chief executive of divisional, regional, zila, upazila or union office of any department, directorate or

office subordinate to it and the following persons or office-bearers shall also be included, as:-

- a. For persons holding constitutional posts, President;
- b. For member of parliaments, Speaker;
- c. For any member from judiciary, Register of Supreme Court;
- d. If related to corruption, Anti Corruption Commission;
- e. If related to public money, Comptroller and Auditor General; and
- f. For illegal and unethical deeds, Officer-in-Charge of respective police station;

(2) **“Officer”** means including a person who is or was elected, selected, contractually or permanently appointed in any agency;

(3) **“Public interest”** means the job undertaken by the government or by its directions for the interest of public or for a part of them;

(4) **“Public interest information”** or **“information”** means is such an information of any agency which expresses that, any officer was, is or may be involved in:

- a. irregular and unauthorized use of public money;
- b. mismanagement of public resources;
- c. misappropriation or misuse of public money or resources;
- d. abuse of power or maladministration;
- e. committing criminal offense or illegal or prohibited acts;
- f. a conduct that is harmful or dangerous for public health, safety or to the environment; or
- g. corruption;

was, is or may be involved in it;

[Explanation: In this section, “corruption” will render the similar meaning of ‘gratification’ of section 161 of Penal Code, 180 (Act No. XLV of 1860.)

(5) **“Whistleblower”** means the person who discloses the public interest information to a competent authority;

(6) **“Determined”** means determined by rules;

(7) “**Code Criminal Procedures**” means Code of Criminal Procedure, 1898 (Act V of 1898);

(8) “**Agency**” means –

- a. any agency established under the Constitution of the People’s Republic of Bangladesh;
- b. any ministry, division or office of the government established under the rules of business under the article 55 (6) of the Constitution of the People’s Republic of Bangladesh;
- c. any statutory agency or institution established by or under an act or ordinance;
- d. any non-government organization or institution governed by the public money or being aided from public fund;
- e. any foreign aided non-government organization or institution;
- f. non-government organization or institution;
- g. any person, non-government organization or institution who are responsible to execute government roles under an executed agreement with the government any government agency or institution on behalf of the government; or
- h. any other agency or institution determined, time to time, by the government by notification in the official gazette.

**3. Supremacy of law.** – Notwithstanding anything contained in any other law for the time being in force, the provision of this Act and the rules made there under shall have effect.

**4. Public interest disclosure.** – (1) any whistleblower can make public interest disclosure, if considered reasonable, to a competent authority.

(2) Any whistleblower, for fulfilling the purpose of this Act, will be considered that he made public interest disclosure, if—

- (a) he believes on reasonable ground that the information is true; or
- (b) If there is no reasonable ground to believe the truth of the information, but he believes that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated..

(3) Any information mentioned in the sub-section (1), can be sent for disclosure, to a competent authority, in written—directly hand-to-hand, by post or via any electronic means.

(4) Each disclosed information shall be supported by such documents or materials that would substantiate it preliminarily.

**5. Whistleblower's protection.** – (1) If any whistleblower discloses any authentic information under sub-section (1) of section 4, his identity cannot not be divulged without his consent.

(2) For making disclosure of public interest information, no criminal or civil, or, where applicable, departmental suit can be filed against the whistleblower.

(3) If the whistleblower is a service holder, only for disclosing public interest information- demotion, harassment transfer or forced retirement or any other measures cannot be taken against him that would incur loss of his psychological, financial or social standing or no departmental actions can be taken against him or he cannot be treated discriminatorily.

(4) Subject to sub-section (6), information disclosed under section 4 cannot be produced as a proof in any civil or criminal case or the whistleblower cannot be presented as a witness in any civil or criminal case and nothing can be publicize in the case proceedings by which the identity of the whistleblower would or may be revealed.

(5) If there is anything in a book, record or a document included in the witnesses-evidences of a civil or criminal case which contains the identity of the whistleblower, then the court will not allow permission to any person to visit the segment of that book, record or document which contains that identity.

(6) Notwithstanding anything contained in this section, during the hearing of a case, if it is clear to the court that, the whistleblower intentionally disclosed false and baseless information or fair trial cannot be ensured without revealing the identity of the whistleblower, then the court can reveal the identity of the whistleblower and for disclosing false and baseless information it can take actions against him under section 10.

**6. Inquiry and legal procedures.** – (1) If any whistleblower discloses any information to a competent authority under information disclosure section 4, the competent authority shall take initiative to inquire into the matter or if the matter lies with another other competent authorities, it shall send the information to that authority.

(2) If any public interest information is disclosed or sent to the competent authority, such authority can inquire into the matters by itself or any other appropriate authority.

(3) While conducting inquiry under sub-section (2), the competent authority or, where applicable, an appropriate authority can collect, if necessary, relevant information and data from the whistleblower.

(4) During or after the inquiry, if is found that,--

(a) the real occurrence or allegation is of trivial nature, repugnant and baseless;  
or

(b) there is no reasonable ground or element to conduct inquiry or carry out legal procedures—

then the competent authority shall stop the proceedings undertaken at once and if the matter is inquired by any other appropriate authority under sub-section (2), such authority shall send its report to the competent authority and the competent authority shall take a decision according to it.

(5) After conducting the inquiry within the stipulated time if it is found that the raised allegation against the concerned officer is true and authentic, then the competent authority shall take appropriate actions against him according to the existing law.

(6) If any inquiry officer is failed to complete the inquiry of that matter within the time stipulated in this section and if there is a need for additional time but he did not apply with mentioning reasonable ground for granting the additional time, legal or departmental actions shall have to be taken against the concerned officer.

**7. Assisting in the inquiry.** – (1) If a whistleblower discloses any public interest information, he shall assist the police or any other law enforcing agency in the inquiry to find the authenticity of that information:

provided that, no whistleblower can be forced to assist in such an inquiry which may jeopardize his life or physical security or he can be affected in other ways.

(2) To fulfill the purpose of this Act, the competent authority, appropriate authority, or where applicable, the inquiry officer can request for assistance to law enforcing agency in case of inquiry or any government authority or statutory agency, and such authority or agency shall provide the assistances accordingly.

**8. Informing the outcome.** – If any public interest information is disclosed by a whistleblower to any competent authority appropriately, if the whistleblower requests, he shall be informed, by keeping his identity secret, what actions have been taken based on that information.

**9. Breach of the provision of section 5.** – (1) If any person breaches the provision of section 5, he will be deemed to have been committed crime under this Act and for this crime he shall be sentenced to imprisonment for a minimum 2 (two) years or maximum 5 (five) years or pay fine or both.

(2) If the guilty person mentioned in the sub-section (1) is a government officer, departmental actions shall have to be taken against him along with the punishment mentioned in the sub-section.

**10. Punishment for disclosing false information.** – (1) Being aware of the falsity or without being completely confirm about the truthiness of the information, if a whistleblower purposely discloses any baseless information, which is not of public interest or there is a possibility to conduct inquiry or trial proceedings based on that information under this Act, he shall be deemed to have been disclosed false information.

(2) If any whistleblower discloses false information mentioned in the sub-section (1), he shall be deemed to have been committed crime under this Act and he shall be sentenced to imprisonment for a minimum 2 (two) years or maximum 5 (five) years or pay a fine or both.

(3) If the whistleblower is a government officer and he discloses any false information mentioned in sub-section (1), departmental actions shall have to be taken against him along with the punishment mentioned in sub-section (2).

**11. Application of the Code of Criminal Procedure.** – Unless anything repugnant in this Act, provisions of Code of Criminal Procedure, 1898 (Act V of 1898) shall be applicable for lodging complain, conducting inquiry, trial and settlement.

- 12. Cognizability, non-compoundability and bailability of offence.** – Offices under this Act shall be cognizable, non-compoundable, and bailable.
- 13. Transmuting fine into compensation.** – Notwithstanding anything contained in any other law for the time being in force, the competent court can consider a sentence to pay a fine imposed by the same under section 10, as a compensation for the person sustained a loss for the disclosure of the false or baseless information by the whistleblower and the money of that fine or compensation is realizable from the whistleblower.
- 14. Conferring award or honor.** – If any allegation or an offence brought out by a whistleblower under this Act is proved by the court, the competent authority can confer the whistleblower with appropriate award or honor.
- 15. Power to make rules.** – The government by notification in the official gazette can make rules for fulfilling the purpose of this Act.
- 16. Publishing English Translated Version:** - (1) After this Act comes into force, if required, the government by notification in the official gazette can publish an authentic English text translated into English.
- (2) If there is any contradiction between the Bengali and English reading of this Act, the Bengali reading will be given preference.

**Ashfaque Hamid**  
Secretary