

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

শনিবার, সেপ্টেম্বর ২৯, ২০১২

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH
MINISTRY OF LAW, JUSTICE AND PARLIAMENTARY AFFAIRS
Legislative and Parliamentary Affairs Division

NOTIFICATION

Dated the, 9th July, 2012

S. R. O. No. 254-Law/2012.—In exercise of the powers conferred by section 16 of the Disclosure of Public Interest Information (Protection) Act, 2011, the Government is pleased to publish the following English translation of the Act to be called the Authentic English Text of the Act, and it shall be effective from the date on which the Act comes into force under sub-section (2) of section 1 of the Act :

Disclosure of Public Interest Information (Protection) Act, 2011

Act No. 7 of 2011

[22 June, 2011/8 Ashar, 1418]

An Act to make provisions for the legal protection of the disclosers who disclose public interest information and any other matters ancillary thereto.

WHEREAS it is expedient and necessary to make provisions for the legal protection of the disclosers who disclose public interest information and any other matters ancillary thereto;

(১৮১৩৪৫)

মূল্য : টাকা ৮.০০

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Disclosure of Public Interest Information (Protection) Act, 2011.

(2) It shall come into force at once.

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

(1) **“competent authority”** means any head of any organisation or any head or chief executive of its attached or subordinate Department, Directorate or Office of a division, zone, district, upazilla or union and shall also include the following persons or posts, namely :—

(a) for the person holding any constitutional post, the President;

(b) for any Member of Parliament, the Speaker;

(c) for any member of judiciary, the Registrar of the Supreme Court;

(d) in respect of corruption, the Anti-Corruption Commission;

(e) in respect of public money, the Comptroller and Auditor General; and

(f) in respect of illegal and immoral acts, the officer-in-charge of any police station;

(2) **“officer”** shall also include any such person who is or was or may be elected, nominated or appointed for full time or part time in any organisation;

(3) **“public interest”** means any action taken for the interest or welfare of the people or any section thereof by the order of the Government or by the Government;

(4) **“public interest information”** or **“information”** means any information which discloses that any officer of any organisation is or was or may be involved in—

(a) irregular and unapproved expenditure of public money;

(b) mismanagement of public property;

(c) misappropriation or misuse of public property;

(d) abuse or maladministration of power;

(e) committing criminal offence or unlawful or illegal act;

(f) any activity harmful or threatening to public health, security or environment; or

(g) corruption;

[**Explanation:** In this clause “**corruption**” has the same meaning as the word “**gratification**” is defined in section 161 of the Penal Code, 1860 (Act No. XLV of 1860).]

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

(6) “**prescribed**” means prescribed by rules;

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

(8) “**organisation**” means—

(a) any organisation established by the Constitution of the People’s Republic of Bangladesh;

(b) any ministry or division or office established under the Rules of Business made under article 55(6) of the Constitution of the People’s Republic of Bangladesh;

(c) any statutory body or institution established by or under any Act or Ordinance;

(d) any private organisation or institution run by public money or supported from public fund;

(e) any private organisation or institution run by foreign assistance;

(f) any private organisation or institution;

(g) any person, private organisation or institution carrying out the Government activities on behalf of the Government according to the contract made between the Government or any such organisation or institution thereof; or

(h) any other organisation or institution as may be determined, from time to time, by notification in the official gazette, by the Government.

3. Act to prevail.—Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall prevail.

4. Disclosure of public interest information.—(1) If any discloser thinks it proper, he may disclose a true public interest information to the competent authority.

(2) For the purposes of this Act, a discloser shall be deemed to have disclosed a true public interest information, if—

- (a) he has reason to believe that such information is true; or
- (b) even though there is no reasonable ground to believe the information to be true, he believes that the information may be true and is expedient to verify the authenticity of the information in consideration of its importance.

(3) Any information mentioned in sub-section (1) may be disclosed to the competent authority personally in writing, or by mail or electronic means.

(4) Every information so disclosed shall be supported by such relevant documents or elements, if any, that prove the information to be prima-facie true.

5. Protection of discloser.—(1) If any discloser discloses any public interest information mentioned in sub-section (1) of section 4, his identity shall not be expressed to any body without his consent.

(2) No criminal or civil case or, as the case may be, departmental proceedings shall be instituted against the discloser on the ground of such disclosure of public interest information.

(3) If the discloser is a government employee, he shall not be subject to any demotion to any lower post or to harassment by transfer, or to compulsory retirement or to any action detrimental to his mental health, and to any financial or social reputation, or to any departmental action or discriminatory treatment.

(4) Subject to the provision of sub-section (6), any information disclosed under section 4 shall not be admissible as evidence in any civil or criminal case and the discloser shall not be called for as a witness in any civil or criminal case, and nothing shall be done in a way that may disclose the identity of the discloser during the proceeding.

(5) If any book, document or papers submitted as evidence in civil or criminal proceedings contain the identity of the discloser, the court shall not allow any person to get access into any part of such book, document or papers that contain such identity.

(6) Notwithstanding anything contained in this section, while hearing any case, if the court is of opinion that the discloser has intentionally disclosed false and groundless information or justice is not possible to be dispensed with in the case without disclosing the true identity of the discloser, the court may allow the identity of the concerned discloser to be disclosed and may take actions against him for the disclosure of such false and groundless information, in accordance with the provisions of section 10.

6. Investigation and lawful activities.—(1) If any discloser discloses any information to the competent authority under section 4, the authority shall take measures to investigate the matter or where the matter is under the jurisdiction of other appropriate authority, the competent authority shall send it to that other appropriate authority.

(2) If any information is disclosed or, as the case may be, sent to the competent authority, the authority itself may investigate the matter or cause the other appropriate authority to investigate the same.

(3) The competent authority or, as the case may be, the other appropriate authority while investigating under sub-section (2), may, if it thinks necessary, collect relevant information or data from the discloser.

(4) During or after the investigation, if it is found that—

- (a) the fact or complaint is petty in nature, irritating, and groundless; or
- (b) there exist no sufficient grounds or element to conduct an investigation or legal proceedings—

the competent authority shall immediately file the matters off, and if the matter is investigated by other appropriate authority in accordance with the provisions of sub-section (2), the other authority shall furnish a report thereof to the competent authority and the competent authority shall take decision accordingly.

(5) After the investigation concluded within the prescribed time, if it is found that the complaint against the concerned officer is true and correct, the competent authority shall take appropriate actions against him according to existing laws.

(6) If any investigating officer fails to conclude his investigation under this section within the prescribed time and also fails to make an application for such additional time as is required for such investigation stating reasonable grounds thereof, he shall be subject to legal and departmental actions.

7. Assistance in investigation.—(1) Where any discloser discloses any public interest information, he shall render assistance to the police officer or any other investigating authority in verifying the authenticity of the information :

Provided that, the discloser shall not be compelled to render assistance in the investigation if it may endanger or, in any way, hamper the security of his life and body.

(2) For the purposes of this Act, the competent authority or the other appropriate authority or the investigating officer, as the case may be, may, while investigating, seek assistance from any law enforcing authority or any other public authority or statutory body and the authority or organization shall render assistance accordingly.

8. Information of result.—If any public interest information is properly disclosed to the competent authority by the discloser, the authority shall, keeping his identity secret upon a request made by the discloser, inform him about the action taken on the basis of the relevant information.

9. Punishment for contravention of provisions of section 5.—(1) If any person contravenes any provision of section 5, he shall be deemed to have committed an offence under this Act and for the offence be punished with imprisonment for a term not more than 5 (five) years but not less than 2 (two) years or with fine or with both.

(2) If the offender mentioned in sub-section (1) is a public servant, he shall, in addition to the punishment mentioned in the sub-section, be liable to departmental punitive action.

10. Punishment for the disclosure of false information.—(1) Any discloser who knowingly or without being sure about the authenticity of the information discloses any groundless information intentionally, which is not a public interest information, or an information on the basis of which there may not be a reasonable expectation to hold an investigation and trial under this Act, he shall be deemed to have disclosed a false information.

(2) If any discloser discloses any false information mentioned in sub-section (1), he shall be deemed to have committed an offence under this Act and for the offence be punished with rigorous imprisonment for a term not more than 5 (five) years but not less 2 (two) years or with fine or with both.

(3) If the discloser is a public servant and discloses public interest information mentioned in sub-section (1), he shall, in addition to the punishment mentioned in sub-section (2), be liable to departmental punitive action.

11. Application of Code of Criminal Procedure.—Notwithstanding anything contained in this Act, the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) relating to filing, investigation, trial and disposal of any complaint shall apply to any offence under this Act.

12. Offences to be cognizable, non-compoundable and bailable.—All offences under this Act shall be cognizable, non-compoundable and bailable.

13. Conversion of the fine into compensation.—Notwithstanding anything contained in any other law for the time being in force, the competent court may convert the fine imposed by it under section 10 into compensation for any person who is affected by the disclosure of any groundless and false information and the fine or compensation shall be liable to be recovered from the discloser who disclosed such groundless and false information.

14. Conferring award or reward, etc.—If any complaint or offence under this Act is proved before any court on the basis of the information disclosed by any discloser, the competent authority may confer any award or reward to such discloser.

15. Power to make rules.—For the purposes of this Act, the Government may, by notification in the official Gazette, make rules.

16. Publication of Authentic English Text.—(1) After the commencement of this Act, if necessary, the Government may, by notification in the official Gazette, publish an Authentic English text of this Act.

(2) In the event of any conflict between the Bangla and the English text of this Act, the Bangla text shall prevail.

By order of the President

Mohammad Shahidul Haque

Secretary.

মোঃ আব্দুল বারিক (উপ-সচিব), উপ-পরিচালক, বাংলাদেশ সরকারি মুদ্রণালয়, ঢাকা কর্তৃক মুদ্রিত।

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