

NATIONAL COUNCIL FOR
LAW REPORTING
LIBRARY

SPECIAL ISSUE

Kenya Gazette Supplement No. 198 (National Assembly Bills No. 50)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2021

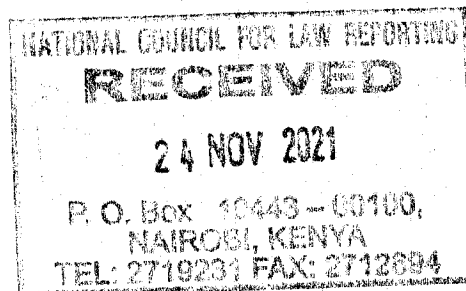
NAIROBI, 29th October, 2021

CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Whistleblower Protection Bill, 20211577



PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

THE WHISTLEBLOWER PROTECTION BILL, 2021

ARRANGEMENT OF CLAUSES

PART I – PRELIMINARY

Clause

1—Short title and commencement.

2—Interpretation.

PART II—ADMINISTRATION

3—General object of the Act.

4—Purposes of the Act.

5—Implementation of the Act.

6—Application of the Act.

7—Responsibilities, powers and functions of the
Commission under this Act.

8—Power of the Commission.

9—Co-operation with other Agencies.

10—Immunity from legal proceedings.

PART III IMPROPER CONDUCT

11—Improper conduct to which this Act applies.

PART IV THE DISCLOSURE PROCESS

12—Procedures to manage and investigate disclosures.

13—Information about Act to be communicated.

14—Designated officer.

15—Disclosures protected by law.

16—Information to be included in disclosure.

17—Disclosure to be in writing.

18—Action after receipt of disclosure.

19—Submission of a copy of written disclosure to the Commission.

20—Anonymous disclosures.

PART V-REQUIREMENTS OF PUBLIC AND PRIVATE BODIES TO DEVELOP AND PUT IN PLACE WHISTLEBLOWER POLICIES AND PROCEDURES

21—Duty to develop and put in place whistleblower policies and procedures.

22—Policies and procedures to prohibit improper conduct and encourage disclosures.

23—Failure to develop and put in place whistleblower policies and procedures.

PART VI PROTECTION OF WHISTLEBLOWERS

24— Whistleblower protection.

25—Workplace reprisal.

26—Reprisals in relation to contracts.

27—Complaints of reprisal.

28—Confidential information.

29—Orders for relief.

30—Revocation of whistleblower's protection.

31—Reconsideration by Whistleblower Review Committee.

PART VII-INVESTIGATION OUTCOMES

32—Investigation report.

33—Report recommendations.

PART VIII-WHISTLEBLOWER REWARD FUND

34—Establishment of Whistleblower Reward Fund.

35—Sources of Fund.

36—Object of the Fund.

37—Reward on conviction.

38—Reward on recovery.

39—Bank account of the Fund.

PART IX-ENFORCEMENT, OFFENCES AND PENALTIES

40—Enforcement of Commission's orders.

41—Obstructing an investigation.

42—Obligation to make disclosure.

43—General penalty.

PART X MISCELLANEOUS

44—Limits of disclosure.

45—Other obligations to report not offered.

46—Exemption.

47—Annual Report of a public or private body to the
Commission.

48—Annual Report of the Commission.

49—Reports at the request of a Committee of Parliament
or the Cabinet Secretary.

50—Financing of operations.

51—Request for advice.

52—Power to make regulations.

THE WHISTLEBLOWER PROTECTION BILL, 2021

A Bill for

AN ACT of Parliament to provide for the procedure for the disclosure of information relating to improper conduct in the public and private sectors; to provide for the protection persons who make such disclosure against victimization, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I – PRELIMINARY

1. This Act may be cited as the Whistleblower Protection Act, 2021 and shall come into force on such date as the Cabinet Secretary may, by notice in the Gazette, appoint.

Short title and commencement.

2. In this Act, unless the context otherwise requires—

Interpretation.

appropriate authority" in relation to a public body means the individual or body that has authority to institute disciplinary measures against a person found to have engaged in improper conduct under this Act;

“Cabinet Secretary's” means the Cabinet Secretary for the time being responsible for matters relating to the administration of justice;

“chief officer” means the chief executive officer of a public or private body or any other prescribed by the regulations;

No. 23 of 2011

“classified information” means information of a particular security classification, the unauthorised disclosure of which would prejudice national security;

“clear and convincing evidence” means evidence indicating a high likelihood or substantial probability of occurrence of an action to which this Act relates;

“Commission” means the Commission on Administrative Justice established under section 3 of the Commission on the Administration of Justice Act, 2011;

“confidential information” includes—