

Act on the protection of whistleblowers.

Approved by the Icelandic Althingi on 12 May 2020.

Article 1

Scope and objectives.

This Act applies to employees who report information or disseminate data in good faith of breaches of the law or other reprehensible conduct in the activities of their employers, whether they work in the public or private sector. Good faith means that the employee has a good reason to consider the data or information provided to be correct, that it is in the public interest to share it and that he or she has no other option to prevent the offenses or conduct in question. Reprehensible conduct refers to conduct that endangers the public interest, such as conduct that threatens the health or safety of people or the environment, without constituting a clear violation of laws or regulations.

An employee within the meaning of this Act is a person who has access to information or data on the employer's activities in connection with his/her role, including hired, appointed, self-employed contractor, board member, trainee, temporary employee and volunteer. An employee is protected in accordance with the provisions of this Act after his/her role ends.

The purpose of this Act is to promote the disclosure of information about offenses and other reprehensible conduct and thus reduce such conduct.

External disclosure, cf. Article 3, is generally not permitted except in cases where internal disclosure, cf. Article 2, has first been tried.

Article 2

Internal disclosure.

Notwithstanding the provisions of law, code of conduct or confidentiality, or confidentiality agreements, an employee who has information or data about violations of the law or other reprehensible conduct in the activities of his employer may share such information and data in good faith with parties who may contribute to it in order to stop or respond to the illegal or reprehensible conduct.

Employees of the state and municipalities are obliged to share information and data according to Article 1. The same applies to employees of legal entities that are 51% or more owned by the public sector.

Dissemination under this Article may, inter alia, be to the immediate superior of the employee and the recipient of the information or data is obliged to promote the cessation of the illegal or reprehensible conduct or to respond to it in another way. He shall inform the employee whether the information has given him cause for action and, if so, to whom.

Dissemination under this Article may also be to police authorities or other relevant official supervisory bodies, such as the Parliamentary Ombudsman, the Auditor General and the Occupational Safety and Health Administration.

The recipient of information or data pursuant to this Article shall maintain the confidentiality of personal information received by the person disclosing the information or data, unless the latter gives his or her unequivocal consent to the secrecy being lifted.

Article 3

External disclosure.

An employee who has disclosed information or data according to Article 2, without having led to an adequate response, the information or data in question may be disclosed in good faith to external parties, including the media, as long as the employee has good reason to believe that the conduct is a case that may involve imprisonment.

Such dissemination is also considered permissible in very exceptional cases when dissemination according to Article 2 is not eligible for valid reasons. It is a condition that the dissemination is considered to be in the public interest so that the interests of the employer or others must take precedence over the interests of the dissemination of information to external parties, such as to protect:

1. the security of the state or the interests of the state in the field of defense,
2. economically important interests of the state,
3. human health,
4. environment.

Receiver of information or data according to Paragraphs 1 and 2 shall maintain the confidentiality of personal information received by the person who disseminates information or data, unless the person in question gives his or her unequivocal consent.

Article 4

Whistleblower protection.

Dissemination of information or data subject to the conditions of Article 2 or 3 does not constitute a breach of the duty of confidentiality, or confidentiality by which the employee is bound by law or in any other way. Such mediation does not impose criminal or tort liability on the person in question and cannot lead to administrative sanctions or burdensome remedies for personnel rights.

An employee who has provided information or data in accordance with the conditions of Article 2 or 3 may not be subjected to unfair treatment. Such treatment includes, for example, deprivation of rights, change of responsibilities in a burdensome manner, termination of a contract, termination of employment, or charges of anyone who has provided data or information in other ways. If this is probable, the other party shall demonstrate that the decision is based on criteria other than that information or data has been disseminated. If this proof fails, the other party shall pay the compensation in question for the damage that has resulted from the unfair treatment, both financial loss and damage.

In the event of a dispute in court regarding the position of an employee with regard to the first or second paragraph shall give the employee a free trial in the district, before the National Court and the Supreme Court. Legal aid is cancelled if it is shown in court that the employee was not acting in good faith when the information was shared.

Article 5

Rules of procedure in the workplace.

In companies or other workplaces where there are on average 50 or more employees on an annual basis, the employer shall, in consultation with the employees, set rules on procedures for giving employees information about offenses or other reprehensible conduct. The rules shall be in writing and shall provide for the receipt, handling and processing of notifications of possible offenses or other reprehensible conduct in the employer's activities. The rules shall be accessible to all employees and may in no way restrict their rights under this Act.

The Minister in charge of state personnel matters sets rules according to Article 1 for public institutions and legally owned legal entities. Local governments shall set rules for the workplaces that fall under the relevant municipality. The State Occupational Safety and Health Administration shall publish a model of rules for other workplaces on its website.

The State Occupational Safety and Health Administration monitors that employers set rules in accordance with this article. The supervisory authority and duty of confidentiality of employees of the Occupational Safety and Health Administration are governed, as applicable, pursuant to Articles 82 and 83 Act on Environment, Hygiene and Safety at Work, no. 46/1980. The Administration of Occupational Safety and Health may instruct employers to set rules in accordance with this Article in accordance with this Act. If the instructions are not followed, the agency can impose daily fines on anyone who neglects to do so. The amount of daily fines and proceedings shall be governed by Article 87 Act on Environment, Hygiene and Safety at Work, no. 46/1980. The instructions of the Administration of Occupational Safety and Health can be appealed on the basis of this paragraph to the Minister who handles the affairs of the Administration of Occupational Safety and Health in accordance with VII. section of the Administrative Procedure Act.

Article 6

Entry into force.

This Act shall enter into force on 1 January 2021, except for point 2.a of Article 7 which enters into force immediately.

Article 7

Amendment to other laws.

Upon the entry into force of this Act, the following amendments will be made to other Acts:

1. Act on the Auditor General and Audit of Central Government Accounts, no. 46/2016 : After Article 21 a new article is added to the Act, Article 21.a, together with the heading, as follows:

On the protection of those who report violations.

Notwithstanding the provisions of law, code of ethics or agreements on professional secrecy or confidentiality, anyone who has information or data on breaches of the law or other reprehensible conduct in the activities of those who fall within the scope of the Auditor General may, in the public interest he oversees, identify from such and provide him with relevant documents.

Anyone who wishes to report or hand over data according to Article 1 shall be stated if he wishes to enjoy protection under this Article. The Auditor General shall inform the person in question whether the information has given him cause for action, so that the provisions of Article do not apply.

The Auditor General shall maintain secrecy regarding the personal information that he obtains or receives pursuant to Article 1 unless the person in question gives his or her unequivocal consent to the removal of secrecy. This means that the right of individuals to be informed of what personal information their Auditor General has worked with does not exist. Personally identifiable information and other data that the Auditor General receives pursuant to Article 1 or acquires on the occasion when the Auditor General no longer deems it necessary to deal with a case.

It is not permitted for anyone who has been treated unfairly in good faith to have provided the Auditor General with information that has led to the Auditor General's actions due to the provision of information. Such treatment includes, for example, deprivation of rights, termination of an agreement, termination of employment or providing anyone who has provided the Auditor General with information in other ways. If this is likely to happen, the other party shall

demonstrate that the decision is based on other criteria than that the Auditor General has been provided with information.

Violation of paragraph 4 is subject to fines or imprisonment for up to two years.

2. Act on working conditions, hygiene and safety at work, no. 46/1980:

a. With the second paragraph. Article 83 of the Act, three new sentences are added, as follows: Employees of the Occupational Safety and Health Administration are bound by a duty of confidentiality regarding all information concerning complaints to the Agency, including the name of the person who directs the complaint to the Agency. The duty of confidentiality remains even if you resign. Data containing such information is exempt from the right to information under the Information Act and the Administrative Procedure Act.

b. Article 88 of the Act reads as follows:

Notwithstanding the provisions of law, code of ethics or agreements on professional secrecy or confidentiality, anyone who has information or data on breaches of law or other reprehensible conduct in the activities of those who fall within the scope of work of the Occupational Safety and Health Administration may in the public interest therefore from such and hand over the relevant data.

Anyone who wishes to report or hand over data according to Article 1 shall be stated if he wishes to enjoy protection under this Article. The Administration of Occupational Safety and Health informs the person in question whether the information has given rise to action, so that the provisions of paragraph does not apply.

The State Occupational Safety and Health Administration shall maintain secrecy regarding the personal information it collects or receives pursuant to Article 1 unless the person in question gives his or her unequivocal consent to the removal of secrecy. This means that the right of individuals to be informed of what personal information their State Occupational Safety and Health Administration has worked with does not exist. Personally identifiable information and other data that the Administration of Occupational Safety and Health receives pursuant to Article 1 or obtains on the occasion when the Occupational Safety and Health Administration no longer considers it necessary to handle a case.

It is not permitted to subject any person to unfair treatment who in good faith has provided the Administration of Occupational Safety and Health with information that has led to the activities of the Occupational Safety and Health Administration due to the provision of information. Such treatment includes, for example, deprivation of rights, termination of a contract, termination of employment or providing anyone who has provided the Occupational Safety and Health Administration with information on its fees in another way. If this is likely to happen, the other party shall demonstrate that the decision is based on other criteria than that the Administration of Occupational Safety and Health has been provided with information.

Violation of paragraph 4 is subject to fines or imprisonment for up to two years.

