

LOK SABHA

PUBLIC INTEREST DISCLOSURE AND PROTECTION TO PERSONS MAKING THE
DISCLOSURES BILL, 2010

(As introduced in Lok Sabha)

Notice of Amendments

Sl. No.	Name of Member and text of Amendment	Clause No.
	SHRI V. NARAYANASAMY:	
1.	Page 1, line 1,— for "Sixty-first Year" substitute "Sixty-second Year".	Enacting formula
2.	Page 1, for lines 4 and 5, substitute— "1. (1) This Act may be called the Whistle Blowers Protection Act, 2011."	1
3.	Page 1, after line 10, insert— "1A. The provisions of this Act shall not apply to the armed force of the Union, being the Special Protection Group constituted under the Special Protection Group Act, 1988."	1A (New) Provisions of this Act not to apply to Special Protection Group.
34 of 1988.		
4.	Page 2, for lines 4 to 11, substitute— (b) "Competent Authority" means— (i) in relation to a Member of the Union Council of Ministers, the Prime Minister; (ii) in relation to a Member of Parliament, other than a Minister, the Chairman of the Council of States if such Member is a Member of the Council of States or the Speaker of the House of the People if such Member is a Member of the House of the People, as the case may be; (iii) in relation to a Member of the Council of Ministers in a State or Union territory, the Chief Minister of the State or Union territory, as the case may be; (iv) in relation to a Member of Legislative Council or Legislative Assembly of a State or Union territory, other than a Minister, the Chairman of the Legislative Council if such Member is a Member of the Council or the Speaker of the Legislative Assembly if such Member is a Member of the Assembly, as the case may be; (v) in relation to— (A) any judge (except a Judge of the Supreme Court or of a High Court), including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions; or (B) any person authorised by a court of justice to perform any duty, in connection with the administration of justice.	2

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	<p>including a liquidator, receiver or commissioner appointed by such court; or</p> <p>(C) any arbitrator or other person to whom any cause or matter has been referred for decision or report by a court of justice or by a competent public authority,</p> <p>the High Court;</p> <p>(vi) in relation to—</p> <p>(A) any person in the service or pay of the Central Government or remunerated by the Central Government by way of fees or commission for the performance of any public duty (except Ministers, Members of Parliament and members or persons referred to in clause (a) or clause (b) or clause (c) or clause (d) of article 33 of the Constitution), or in the service or pay of a society or local authority or any corporation established by or under any Central Act, or an authority or a body owned or controlled or aided by the Central Government or a Government company as defined in section 617 of the Companies Act, 1956, owned or controlled by the Central Government; or</p> <p>(B) any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election in relation to elections to Parliament or a State Legislature; or</p> <p>(C) any person who holds an office by virtue of which he is authorised or required to perform any public duty (except Ministers and Members of Parliament); or</p> <p>(D) any person who is the president, secretary or other office-bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the Central Government or from any corporation established by or under a Central Act, or any authority or body or a Government company as defined in section 617 of the Companies Act, 1956 owned or controlled or aided by the Central Government; or</p> <p>(E) any person who is a chairman, member or employee of any Central Service Commission or Board, by whatever name called, or a member of any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on behalf of such Commission or Board; or</p> <p>(F) any person who is a Vice-Chancellor or member of any governing body, professor, associate professor, assistant professor, reader, lecturer or any other teacher or employee, by whatever designation called, of any University established by a Central Act or established or controlled or funded by the Central Government or any person whose services have been availed of by such University or any such other public authority in connection with holding or conducting examinations; or</p>	
1 of 1956.		
1 of 1956.		

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	(G) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any local or other public authority,	
	the Central Vigilance Commission or any other authority, as the Central Government may, by notification in the Official Gazette, specify in this behalf under this Act;	
	(vi) in relation to—	
1 of 1956.	(A) any person in the service or pay of the State Government or remunerated by the State Government by way of fees or commission for the performance of any public duty (except Ministers, Members of Legislative Council or Legislative Assembly of the State), or in the service or pay of a society or local authority or any corporation established by or under a Provincial or State Act, or an authority or a body owned or controlled or aided by the State Government or a Government company as defined in section 617 of the Companies Act, 1956, owned or controlled by the State Government; or	
	(B) any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election in relation to municipality or Panchayats or other local body in the State; or	
	(C) any person who holds an office by virtue of which he is authorised or required to perform any public duty in relation to the affairs of the State Government (except Ministers and Members of Legislative Council or Legislative Assembly of the State); or	
1 of 1956.	(D) any person who is the president, secretary or other office-bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the State Government or from any corporation established by or under a Provincial or State Act, or any authority or body or a Government company as defined in section 617 of the Companies Act, 1956 owned or controlled or aided by the State Government; or	
	(E) any person who is a chairman, member or employee of any State Service Commission or Board, by whatever name called, or a member of any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on behalf of such Commission or Board; or	
	(F) any person who is a Vice-Chancellor or member of any governing body, professor, associate professor, assistant professor, reader, lecturer or any other teacher or employee, by whatever designation called, of any University established by a Provincial or State Act or established or controlled or funded by the State Government and any person whose	

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	<p>services have been availed of by such University or any such other public authority in connection with holding or conducting examinations; or</p> <p>(C) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the State Government or any local or other public authority,</p> <p>the State Vigilance Commission, if any, or any officer of the State Government or any other authority, as the State Government may, by notification in the Official Gazette, specify in this behalf under this Act;</p> <p>(viii) in relation to members or persons referred to in clause (a) or clause (b) or clause (c) or clause (d) of article 33 of the Constitution, any authority or authorities as the Central Government or the State Government, as the case may be, <i>having jurisdiction in respect thereof</i>, may, by notification in the Official Gazette, specify in this behalf under this Act;</p>	
5.	Page 2, for lines 17 to 19, substitute—	2
	"(ii) wilful misuse of power or wilful misuse of discretion by virtue of which demonstrable loss is caused to the Government or demonstrable wrongful gain accrues to the public servant or to any third party;"	
6.	Page 2, for lines 35 to 44, substitute—	2
49 of 1988.	(i) "public servant" shall have the same meaning as assigned to it in clause (c) of section 2 of the Prevention of Corruption Act, 1988 but shall not include a judge of the Supreme Court or a judge of a High Court;"	
7.	Page 3, for lines 5 to 21, substitute—	3
19 of 1923.	"3. (1) Notwithstanding anything contained in the provisions of the Official Secrets Act, 1923, any public servant or any other person including any non-governmental organisation, may make a public interest disclosure before the Competent Authority. <p>(2) Any disclosure made under this Act shall be treated as public interest disclosure for the purposes of this Act and shall be made before the Competent Authority and the complaint making the disclosure shall, on behalf of the Competent Authority, be received by such authority as may be specified by regulations made by the Competent Authority."</p>	Requirement of public interest disclosure.
8.	Page 4, lines 3,—	4
	after "in such manner"	
	insert "and within such time"	
9.	Page 4, lines 16,—	4
	for "identity of the public servant"	
	substitute "identity of the complainant or public servant"	

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10.	Page 4, line 18, for "Competent Authority may reveal" substitute "Competent Authority may, with the prior written consent of the complainant or public servant, reveal"	4
11.	Page 4, after line 20, insert— "Provided further that in case the complainant or public servant does not agree to his name being revealed to the Head of the Department, in that case, the complainant or public servant, as the case may be, shall provide all documentary evidence in support of his complaint to the Competent Authority."	4
12.	Page 4, after line 42, insert— "(8) The public authority to whom a recommendation is made under sub-section (7) shall take a decision on such recommendation within three months of receipt of such recommendation, or within such extended period not exceeding three months, as the Competent Authority may allow on a request made by the public authority. Provided that in case the public authority does not agree with the recommendation of the Competent Authority, it shall record the reasons for such disagreement. (9) The Competent Authority shall, after making an inquiry, inform the complainant or public servant about the action taken on the complaint and the final outcome thereof. Provided that in a case where, after making an inquiry, the Competent Authority decides to close the case, it shall, before passing the order for closure of the case, provide an opportunity of being heard to the complainant, if the complainant so desires."	4
13.	Page 5, line 7,— for "five years" substitute "seven years".	5
14.	Page 6, line 30,— for "specified" substitute "prescribed"	9
15.	Page 6, after line 43, insert— "Provided that the Competent Authority shall, before giving any such direction to the public authority or public servant, give an opportunity of hearing to the complainant and the public authority or public servant, as the case may be: Provided further that in any such hearing, the burden of proof that the alleged action on the part of the public authority is not victimisation, shall lie on the public authority."	10
16.	Page 7, after line 4, insert— "(5) Any person who wilfully does not comply with the direction of the Competent Authority under sub-section (2), shall be liable to a penalty which may extend up to thirty thousand rupees."	10

Sl. No.	Name of Member and text of Amendment	Clause No.
17.	Page 7, for lines 22 to 30, substitute— <p>"14. Where the Competent Authority, at the time of examining the report or explanations or report referred to in sub-section (3) of Section 4 on the complaint submitted by organisation or official concerned, is of the opinion that the organisation or official concerned, without any reasonable cause, has not furnished the report within the specified time or <i>mala fide</i> refused to submit the report or knowingly given incomplete, incorrect or misleading or false report or destroyed record or information which was the subject of the disclosure or obstructed in any manner in furnishing the report; it shall impose—</p> <p>(a) where the organisation or official concerned, without any reasonable cause, has not furnished the report within the specified time or <i>mala fide</i> refused to submit the report, a penalty which may extend to two hundred fifty rupees for each day till report is furnished, so however, the total amount of such penalty shall not exceed fifty thousand rupees;</p> <p>(b) where the organisation or official concerned, has knowingly given incomplete, incorrect or misleading or false report or destroyed record or information which was the subject of the disclosure or obstructed in any manner the furnishing of the report, a penalty which may extend to fifty thousand rupees."</p>	14
18.	Page 8, line 21,— <p>after "section 15" insert "or section 16".</p>	19
19.	Page 9, line 10,— <p>after "the manner in which" insert "and the time within which".</p>	24

NEW DELHI,
December 20, 2011
Agrahayana 29, 1933 (Saka)

T. K. VISWANATHAN,
Secretary-General.

*List No. 2

LOK SABHA

PUBLIC INTEREST DISCLOSURE AND PROTECTION TO PERSONS
MAKING THE DISCLOSURES BILL, 2010

[As introduced in Lok Sabha]

Notice of Motion under Rule 388

<i>Sl. No.</i>	<i>Name of Member and text of Motion</i>	<i>Clause No.</i>
20.	SHRIV. NARAYANASAMY: "That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No. 3* to the Public Interest Disclosure and Protection to Persons Making the Disclosures Bill, 2010 and that this amendment may be allowed to be moved."	1A (New)

*Viz Amendments (List No. 1) introduced on 20.12.2011

NEW DELHI;
December 20, 2011
Agrahayana 29, 1933 (Saka)

J. K. VISWANATHAN,
Secretary-General.