

THE PUBLIC INTEREST DISCLOSURE
(WHISTLEBLOWER PROTECTION) ACT

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PART 1 PURPOSE AND DEFINITIONS	
<p>Purpose of this Act</p> <p>1 The purpose of this Act is</p> <p style="padding-left: 40px;">(a) to facilitate the disclosure and investigation of significant and serious matters in or relating to the public service, that are potentially unlawful, dangerous to the public or injurious to the public interest; and</p> <p style="padding-left: 40px;">(b) to protect persons who make those disclosures.</p>	<p>The purpose of the Act is to enable employees and others to raise concerns about serious matters without fear of being fired or suffering other negative employment action.</p>
<p>Definitions</p> <p>2 The following definitions apply in this Act.</p> <p>"board" means The Manitoba Labour Board appointed under <i>The Labour Relations Act</i>.</p> <p>"chief executive" means</p> <p style="padding-left: 40px;">(a) in relation to a department, the deputy minister of that department;</p> <p style="padding-left: 40px;">(b) in relation to a government body, the chief executive officer of that body; and</p> <p style="padding-left: 40px;">(c) in relation to an office, the officer of the Legislative Assembly in charge of that office.</p>	<p>The Manitoba Labour Board is given jurisdiction to hear and determine allegations of reprisal.</p> <p>The head of each department, body or office is responsible for developing procedures to implement the Act.</p>

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<p>"department" means a department of the government.</p> <p>"designated officer" means the senior official designated under section 6 to receive and deal with disclosures under this Act.</p> <p>"disclosure" means a disclosure made in good faith by an employee in accordance with this Act.</p> <p>"employee" means an employee or officer of a department, government body or office.</p> <p>"government body" means</p> <ul style="list-style-type: none"> (a) a government agency as defined in <i>The Financial Administration Act</i>; (b) a regional health authority established or continued under <i>The Regional Health Authorities Act</i>; (c) a child and family services agency incorporated under <i>The Child and Family Services Act</i>; (d) a Child and Family Services Authority established under <i>The Child and Family Services Authorities Act</i>; and (e) any other body designated as a government body in the regulations. <p>"office" means</p> <ul style="list-style-type: none"> (a) the office of the Auditor General; (b) the office of the Chief Electoral Officer; (b1) the office of the registrar appointed under <i>The Lobbyists Registration Act</i>; 	<p>A senior official must be designated in each department or entity to manage the disclosure process for the department or entity.</p> <p>Disclosures must be made by an employee in good faith.</p> <p>Employees at all levels, including chief executive officers, are covered by the Act.</p> <p>The Act applies to:</p> <ul style="list-style-type: none"> - government departments - government agencies, like Manitoba Hydro, MPI, Manitoba Lotteries Corporation, Manitoba Liquor Control Commission, Workers Compensation Board, etc. - regional health authorities and entities within their jurisdiction - child and family services agencies and authorities - any other government body designated in the regulations like health related entities, residential care facilities, child care facilities and centers, universities, community health centers, agencies providing vocational rehabilitation and evaluation and training programs, etc. <p>The independent offices of the Legislative Assembly are covered by the Act.</p>

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<p>(c) the office of the Children's Advocate;</p> <p>(c.1) the office of the Information and Privacy Adjudicator, and</p> <p>(d) the office of the Ombudsman. («bureau»)</p> <p>"Ombudsman" means the Ombudsman appointed under <i>The Ombudsman Act</i>.</p> <p>"public service" means departments, government bodies and offices.</p> <p>"reprisal" means any of the following measures taken against an employee because the employee has, in good faith, sought advice about making a disclosure, made a disclosure, or co-operated in an investigation under this Act:</p> <p>(a) a disciplinary measure;</p> <p>(b) a demotion;</p> <p>(c) termination of employment;</p> <p>(d) any measure that adversely affects his or her employment or working conditions;</p> <p>(e) a threat to take any of the measures referred to in clauses (a) to (d).</p> <p>"wrongdoing" means a wrongdoing referred to in section 3.</p>	<p>Office of the registrar appointed under <i>The Lobbyists Registration Act</i> added April 30, 2012.</p> <p>Office of the Information and Privacy Adjudicator added January 1, 2011.</p> <p>The Ombudsman is given the power to receive and investigate disclosures of wrongdoing.</p> <p>The Act protects employees who make authorized disclosures against adverse employment consequences, like termination, demotion, discipline or any other negative measure.</p> <p>Only wrongdoings as described in section 3 are covered by this Act.</p>

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<p style="text-align: center;">PART 2</p> <p style="text-align: center;">DISCLOSURES OF WRONGDOING</p>	
<p style="text-align: center;">WRONGDOINGS</p>	
<p>Wrongdoings to which this Act applies</p> <p>3 This Act applies to the following wrongdoings in or relating to the public service:</p> <p>(a) an act or omission constituting an offence under an Act of the Legislature or the Parliament of Canada, or a regulation made under an Act;</p> <p>(b) an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of an employee;</p> <p>(c) gross mismanagement, including of public funds or a public asset;</p> <p>(d) knowingly directing or counselling a person to commit a wrongdoing described in clauses (a) to (c).</p>	<p>The kinds of wrongdoing that employees can report under this Act include</p> <ul style="list-style-type: none"> • contraventions of a law • acts or omissions that are dangerous to the life, health or safety of the public or the environment • gross mismanagement • directing or counseling an employee to commit a wrongdoing.
<p>Discipline for wrongdoing</p> <p>4 An employee who commits a wrongdoing is subject to appropriate disciplinary action, including termination of employment, in addition to and apart from any penalty provided for by law.</p>	<p>An employee who commits a wrongdoing can be disciplined, up to and including termination, in addition to any other penalty.</p>

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PROCEDURES	
<p>Procedures to manage disclosures 5(1) Every chief executive must establish procedures to manage disclosures by employees of the department, government body or office for which the chief executive is responsible.</p>	<p>The head of the department, body or office is responsible for establishing procedures to receive and manage disclosures made by employees under the Act.</p>
<p>Content of procedures 5(2) The procedures established under subsection (1) must include procedures</p> <ul style="list-style-type: none"> (a) for receiving and reviewing disclosures, including setting time periods for action; (b) for investigating disclosures in accordance with the principles of procedural fairness and natural justice; (c) respecting the confidentiality of information collected in relation to disclosures and investigations; (d) for protecting the identity of persons involved in the disclosure process, subject to any other Act and to the principles of procedural fairness and natural justice; (e) for reporting the outcome of investigations; and (f) respecting any other matter specified in the regulations. 	<p>The procedures must explain how a disclosure will be dealt with, how confidentiality will be protected, how the identity of persons involved in the disclosure process will be protected and how the results of any investigation will be reported.</p> <p>The procedures for investigations and for protecting the identity of persons involved in the disclosure process must respect the principles of procedural fairness and natural justice. Examples include: the right to understand the case against you, the right to be heard by the decision-maker, the right to a fair and unbiased decision and the right to be told the reasons for the decision.</p>

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<p>Designated officer 6 Every chief executive must designate a senior official to be the designated officer for the purposes of this Act, to receive and deal with disclosures by employees in the department, government body or office for which the chief executive is responsible.</p>	<p>Each head must designate a senior official to be the designated officer for the department, body or office.</p>
<p>Exception 7(1) Sections 5 and 6 do not apply to a chief executive who determines in consultation with the Ombudsman that it is not practical to apply those sections, given the size of the department, government body or office for which the chief executive is responsible.</p>	<p>If the Ombudsman agrees, a small entity is not required to have a designated official or formal procedures.</p>
<p>Chief executive to be designated officer 7(2) If no designation is made under section 6, the chief executive is the designated officer for the purposes of this Act.</p>	<p>If an entity has no designated official, the head of the entity is responsible for receiving and managing disclosures by employees.</p>
<p>Information about Act to be communicated 8 The chief executive must ensure that information about this Act and the disclosure procedures is widely communicated to the employees of the department, government body or office for which the chief executive is responsible.</p>	<p>The head of each entity is responsible for ensuring that employees know about the Act and how it is administered within the entity.</p>
<p>MAKING A DISCLOSURE</p>	
<p>Request for advice 9(1) An employee who is considering making a disclosure may request advice from the designated officer or the Ombudsman.</p>	<p>Employees can get advice on the Act from their designated officer or the Ombudsman.</p>

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<p>Request may be in writing 9(2) The designated officer or Ombudsman may require the request for advice to be in writing.</p>	<p>They may be asked to put the request for advice in writing.</p>
<p>Disclosure by employee 10 If an employee reasonably believes that he or she has information that could show that a wrongdoing has been committed or is about to be committed, the employee may make a disclosure to</p> <ul style="list-style-type: none"> (a) the employee's supervisor; (b) the employee's designated officer; or (c) the Ombudsman. 	<p>An employee who wishes to make a disclosure of wrongdoing under this Act may choose to make the disclosure to his or her supervisor, to the designated officer for the department or entity where the employee works or to the Ombudsman. To make a disclosure, the employee must have a reasonable belief that a wrongdoing has been or is about to be committed.</p>
<p>Disclosure to Auditor General re Ombudsman 11 If an employee of the office of the Ombudsman is seeking advice or making a disclosure regarding that office, the advice may be sought from, or the disclosure made to, the Auditor General. If a disclosure is made, the Auditor General must carry out the responsibilities of the Ombudsman under this Act in relation to that disclosure.</p>	<p>If an employee of the Ombudsman's office wishes to make a disclosure about that office, the employee can make the disclosure to the Auditor General who then carries out the responsibilities of the Ombudsman under this Act with respect to the disclosure.</p>
<p>Content of disclosure 12 A disclosure made under section 10 or 11 must be in writing and must include the following information, if known:</p> <ul style="list-style-type: none"> (a) a description of the wrongdoing; 	<p>A disclosure must be in writing and provide a description of the wrongdoing, the names of those responsible, when the wrongdoing occurred and whether the matter has already been raised and a response received.</p>

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<p>(b) the name of the person or persons alleged to</p> <p style="padding-left: 40px;">(i) have committed the wrongdoing, or</p> <p style="padding-left: 40px;">(ii) be about to commit the wrongdoing;</p> <p>(c) the date of the wrongdoing;</p> <p>(d) whether the wrongdoing has already been disclosed and a response received.</p>	
<p>Ombudsman to facilitate resolution within department, etc. 13 When an employee makes a disclosure to the Ombudsman, the Ombudsman may take any steps he or she considers appropriate to help resolve the matter within the department, government body or office.</p>	<p>The Ombudsman may take steps to resolve a matter within a department or entity.</p>
<p>MAKING A DISCLOSURE ABOUT AN URGENT MATTER</p>	
<p>Public disclosure if situation is urgent 14(1) If an employee reasonably believes that a matter constitutes an imminent risk of a substantial and specific danger to the life, health or safety of persons, or to the environment, such that there is insufficient time to make a disclosure under section 10, the employee may make a disclosure to the public.</p> <p>(a) if the employee has first made the disclosure to an appropriate law enforcement agency or, in the case of a health-related matter, the chief provincial public health officer; and</p> <p>(b) subject to any direction that the agency or officer considers necessary in the public interest.</p>	<p>If a proposed disclosure relates to a matter that constitutes an imminent and serious risk to life, health or safety or to the environment such that the employee believes that the urgency of the situation requires an immediate disclosure to the public, the employee may make the disclosure to the public if the employee first makes the disclosure to the appropriate law enforcement agency or, if it is a health-related matter, to the chief provincial public health officer. The disclosure to the public is also subject to any direction of the agency or officer that is in the public interest.</p>

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<p>Disclosing to supervisor or designated officer 14(2) Immediately after a disclosure is made under subsection (1), the employee must also make a disclosure about the matter to his or her supervisor or designated officer.</p>	<p>An employee who makes a disclosure as described above must immediately after make a disclosure about the matter to his or her supervisor or designated officer.</p>
<p>TYPES OF INFORMATION THAT CAN BE DISCLOSED</p>	
<p>Disclosure despite other Acts 15 Subject to section 16, an employee may make a disclosure under this Act, even if a provision in another Act or regulation prohibits or restricts disclosure of the information.</p>	<p>With some exceptions, an employee can make a disclosure under this Act even if it is prohibited under another Act.</p>
<p>Where disclosure restrictions continue to apply 16(1) Nothing in this Act authorizes the disclosure of</p> <ul style="list-style-type: none"> (a) information described in subsection 19(1) of The Freedom of Information and Protection of Privacy Act (Cabinet confidences), except in circumstances mentioned in subsection 19(2) of that Act; (b) information that is protected by solicitor-client privilege; (c) in the case of a disclosure to the public under subsection 14(1), information that is subject to any restriction created by or under an Act of the Legislature or the Parliament of Canada, or of a regulation made under an Act. 	<p>An employee cannot disclose a Cabinet confidence or information that is subject to solicitor-client privilege. In addition, if the employee is making a disclosure to the public, the employee cannot disclose information that is protected by a provincial or federal Act.</p>

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<p>Caution re disclosure of personal or confidential information 16(2) If the disclosure involves personal information or confidential information, the employee must take reasonable precautions to ensure that no more information is disclosed than is necessary to make the disclosure.</p>	<p>Where personal or confidential information is involved, the employee must disclose as little information as possible.</p>
<p>Other obligations to report not affected 17 Nothing in this Act relating to the making of a disclosure is to be construed as affecting an employee's obligation under any other Act or regulation to disclose, report or otherwise give notice of any matter.</p>	<p>There are obligations to report matters under other Acts of the Legislature and this section makes it clear that this Act is not intended to affect those obligations in any way: examples include <i>The Workplace Safety and Health Act</i>, <i>The Child and Family Services Act</i>, <i>The Drinking Water Safety Act</i>, <i>The Protection for Persons in Care Act</i> and <i>The Regional Health Authorities Act</i> (regarding critical incidents reporting).</p>
<p>ANNUAL REPORT ABOUT DISCLOSURES</p>	
<p>Report about disclosures 18(1) Each year, a chief executive must prepare a report on any disclosures of wrongdoing that have been made to a supervisor or designated officer of the department, government body or office for which the chief executive is responsible.</p>	<p>The chief executive of each department or entity covered by the Act must prepare an annual report on activity under the Act.</p>

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<p>Information to be included 18(2) The report must include the following information:</p> <p>(a) the number of disclosures received and the number acted on and not acted on;</p> <p>(b) the number of investigations commenced as a result of a disclosure;</p> <p>(c) in the case of an investigation that results in a finding of wrongdoing, a description of the wrongdoing and any recommendations or corrective actions taken in relation to the wrongdoing or the reasons why no corrective action was taken.</p>	<p>The report must include a description of the general level of activity under the Act as well as a description of any wrongdoing that was found and the corrective steps taken (or why no corrective action was taken).</p>
<p>Public access to report 18(3) The report must be included in the annual report of the department, government body or office, if an annual report is made publicly available. Otherwise, the chief executive must make the report available to the public on request.</p>	<p>The report must be included in the annual report of the department. If there is no publicly available annual report, the report must be made available to the public on request.</p>
<p>PART 3</p> <p>INVESTIGATIONS BY THE OMBUDSMAN</p>	
<p>Purpose of investigation 19 The purpose of an investigation into a disclosure of wrongdoing is to bring the wrongdoing to the attention of the appropriate department, government body or office, and to recommend corrective measures that should be taken.</p>	<p>The purpose of an investigation by the Ombudsman is to ensure that the wrongdoing is brought to the attention of the relevant department or entity and to recommend appropriate corrective action.</p>

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<p>Investigation by Ombudsman 20(1) The Ombudsman is responsible for investigating disclosures that he or she receives under this Act.</p>	<p>The Ombudsman is responsible for investigating disclosures made to the Ombudsman.</p>
<p>Informal investigation 20(2) An investigation is to be conducted as informally and expeditiously as possible.</p>	<p>Investigations are to be as informal and fast as possible.</p>
<p>Right to procedural fairness and natural justice protected 20(3) The Ombudsman must ensure that the right to procedural fairness and natural justice of all persons involved in an investigation is respected, including persons making disclosures, witnesses and persons alleged to be responsible for wrongdoings.</p>	<p>Investigations must ensure that procedural fairness and natural justice requirements are observed. Examples include: the right to understand the case against you, the right to be heard by the decision-maker, the right to a fair and unbiased decision and the right to be told the reasons for the decision.</p>
<p>When investigation not required 21(1) The Ombudsman is not required to investigate a disclosure – and the Ombudsman may cease an investigation – if he or she is of the opinion that</p> <p>(a) the subject matter of the disclosure could more appropriately be dealt with, initially or completely, according to a procedure provided for under another Act;</p> <p>(b) the disclosure is frivolous or vexatious, or has not been made in good faith or does not deal with a sufficiently serious subject matter;</p> <p>(c) so much time has elapsed between the date when the subject matter of the disclosure arose and the date when the disclosure was made that investigating it would not serve a useful purpose;</p>	<p>The Ombudsman is not required to investigate a matter if the Ombudsman believes that</p> <ul style="list-style-type: none"> - another process is more appropriate - the disclosure is frivolous, not made in good faith or does not relate to a significant and serious matter - no useful purpose would be served by investigating because of the lapse of time - the disclosure relates to policy or operational decision-making taken in a balanced and informed way - the employee hasn't provided enough information - there is another reason why investigation is not necessary

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<p>(d) the disclosure relates to a matter that results from a balanced and informed decision-making process on a public policy or operational issue;</p> <p>(e) the disclosure does not provide adequate particulars about the wrongdoing as required by section 12;</p> <p>(f) the disclosure relates to a matter that could more appropriately be dealt with according to the procedures under a collective agreement or employment agreement;</p> <p>(g) there is another valid reason for not investigating the disclosure.</p>	
<p>Referral to Auditor General 21(2) If the Ombudsman believes that a disclosure made to the Ombudsman would be dealt with more appropriately by the Auditor General, the Ombudsman may refer the matter to the Auditor General to be dealt with in accordance with <i>The Auditor General Act</i>.</p>	<p>The Ombudsman can refer a matter to the Auditor General if the Ombudsman feels that the matter could more appropriately be investigated by the Auditor General.</p>
<p>Reprisal protections apply 21(3) If a matter is referred to the Auditor General under subsection (2), the reprisal protections set out in Part 4 of this Act apply to the employee or former employee who made the disclosure to the Ombudsman.</p>	<p>If the Ombudsman refers a matter to the Auditor General, the reprisal protection continues to apply to the employee who made the disclosure.</p>
<p>Conducting an investigation 22 The Ombudsman and persons employed under the Ombudsman have the powers and protections provided for in <i>The Ombudsman Act</i> when conducting an investigation of a disclosure under this Act. Sections 12 to 14, 24 to 35 and 39 to 41 of that Act apply to the conduct of such an investigation, with necessary changes.</p>	<p>The investigation powers and protections provided for the Ombudsman and the Ombudsman's staff under <i>The Ombudsman Act</i> apply to investigations under this Act.</p>

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<p>Investigating other wrongdoings 23 If, during an investigation, the Ombudsman has reason to believe that another wrongdoing has been committed, the Ombudsman may investigate that wrongdoing in accordance with this Part.</p>	<p>The Ombudsman may investigate any wrongdoing that comes to his or her attention in the course of an investigation.</p>
<p>Ombudsman's report re investigation 24(1) Upon completing an investigation, the Ombudsman must prepare a report containing his or her findings and any recommendations about the disclosure and the wrongdoing.</p>	<p>The Ombudsman must prepare a report and recommendations following an investigation. Proposed amendments to change the reporting requirements under section 24 and 30 to be consistent with reporting requirements under <i>The Ombudsman's Act</i>.</p>
<p>Copy to employee and chief executive 24(2) The Ombudsman must give a copy of the report to the employee and the chief executive of the appropriate department, government body or office.</p>	<p>The report must be given to the employee and the head of the affected department or entity.</p>
<p>Matter being investigated involves chief executive 24(3) When the matter being investigated involves the chief executive, the Ombudsman must also give a copy of the report,</p> <ul style="list-style-type: none"> (a) in the case of a department, to the minister responsible; (b) in the case of a government body, to the board of directors and the minister responsible; or (c) in the case of an office, to the Speaker of the Legislative Assembly. 	<p>If the investigation relates to the head of the department or agency, the Ombudsman must also give a copy of the report to the responsible minister, to the board of directors and the minister or to the Speaker of the Assembly, as appropriate.</p>

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<p>Department to notify Ombudsman of proposed steps 25(1) When making recommendations, the Ombudsman may request the department, government body or office to notify him or her, within a specified time, of the steps it has taken or proposes to take to give effect to the recommendations.</p>	<p>The Ombudsman may ask to be notified of follow-up on his or her recommendations.</p>
<p>Report to minister or Speaker 25(2) If the Ombudsman believes that the department, government body or office has not appropriately followed up on his or her recommendations, or did not co-operate in the Ombudsman's investigation under this Act, the Ombudsman may make a report on the matter</p> <p>(a) in the case of a department, to the minister responsible;</p> <p>(b) in the case of a government body, to the board of directors and the minister responsible; or</p> <p>(c) in the case of an office, to the Speaker of the Legislative Assembly.</p>	<p>The Ombudsman may advise the minister, the board of directors and the minister or the Speaker of the Legislative Assembly, as appropriate, if the Ombudsman's recommendations have not been adequately addressed by the department or agency.</p>
<p>Annual report 26(1) The Ombudsman must make an annual report to the Legislative Assembly on the exercise and performance of his or her functions and duties under this Act, setting out</p> <p>(a) the number of general inquiries relating to this Act;</p> <p>(b) the number of disclosures received and the numbers acted on and not acted on;</p> <p>(c) the number of investigations commenced under this Act;</p>	<p>The Ombudsman must prepare an annual report to the Legislative Assembly providing statistical information about the activity under the Act during the year as well as noting any systemic issues he or she believes there to be and making any recommendations for improvement.</p>

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<p>(d) the number of recommendations the Ombudsman has made and whether the department, government body or office has complied with the recommendations;</p> <p>(e) whether, in the opinion of the Ombudsman, there are any systemic problems that give rise to wrongdoings; and</p> <p>(f) any recommendations for improvement that the Ombudsman considers appropriate.</p>	
<p>Report to be tabled in Assembly 26(2) The report must be given to the Speaker, who must table a copy of it in the Legislative Assembly within 15 days after receiving it if the Assembly is sitting or, if it is not, within 15 days after the next sitting begins.</p>	<p>The report must be tabled in the Assembly.</p>
<p>Special report 26(3) Where it is in the public interest to do so, the Ombudsman may publish a special report relating to any matter within the scope of the Ombudsman's responsibilities under this Act, including a report referring to and commenting on any particular matter investigated by the Ombudsman.</p>	<p>The Ombudsman may prepare a special report regarding any matter where the Ombudsman believes that it is in the public interest to do so.</p>

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<p style="text-align: center;">PART 4</p> <p style="text-align: center;">PROTECTION FROM REPRISAL</p>	
<p>Protection of employee from reprisal 27 No person shall take a reprisal against an employee or direct that one be taken against an employee because the employee has, in good faith,</p> <p style="padding-left: 40px;">(a) sought advice about making a disclosure from his or her supervisor, designated officer or chief executive, or the Ombudsman;</p> <p style="padding-left: 40px;">(b) made a disclosure; or</p> <p style="padding-left: 40px;">(c) co-operated in an investigation under this Act.</p>	<p>An employee who makes a disclosure, seeks advice about making a disclosure or cooperates in an investigation flowing from a disclosure is given protection from reprisal.</p>
<p>Complaint to Manitoba Labour Board 28(1) An employee or former employee who alleges that a reprisal has been taken against him or her may file a written complaint with the board.</p>	<p>An employee may file a complaint with the Manitoba Labour Board if the employee believes a reprisal has been taken against him or her.</p>
<p>Procedures for dealing with the complaint 28(2) Section 30 and subsections 31(1) and (2) of <i>The Labour Relations Act</i> (procedures for dealing with unfair labour practice) apply to a complaint filed under subsection (1), with necessary changes.</p>	<p>The Labour Board may exercise its usual powers and procedures regarding unfair labour practices in a reprisal protection matter.</p>

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<p>Board order 28(3) If the board determines that a reprisal has been taken against the complainant contrary to section 27, the board may order one or more of the following measures to be taken:</p> <ul style="list-style-type: none"> (a) permit the complainant to return to his or her duties; (b) reinstate the complainant or pay damages to the complainant, if the board considers that the trust relationship between the parties cannot be restored; (c) pay compensation to the complainant in an amount not greater than the remuneration that the board considers would, but for the reprisal, have been paid to the complainant; (d) pay an amount to the complainant equal to any expenses and any other financial losses that the complainant has incurred as a direct result of the reprisal; (e) cease any activity that constitutes the reprisal; (f) rectify a situation resulting from the reprisal; (g) do or refrain from doing anything in order to remedy any consequence of the reprisal. 	<p>The Labour Board may make any order that effectively deals with the reprisal taken against the employee, including reinstatement, damages or other compensation or expenses, or requiring an activity to cease or a situation to be rectified.</p>
<p>Labour Relations Act applies 29 Sections 134, 135, 136, 140, 142 and 143 of <i>The Labour Relations Act</i> apply to any proceeding before the board under this Act, with necessary changes.</p>	<p>The general powers and protections established in <i>The Labour Relations Act</i> apply to the Labour Board as it carries out its functions under this Act.</p>

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<p style="text-align: center;">PART 5</p> <p style="text-align: center;">GENERAL PROVISIONS</p>	
<p style="text-align: center;">INFORMATION ABOUT WRONGDOING PROVIDED BY PERSONS OUTSIDE THE PUBLIC SERVICE</p>	
<p>Disclosure of wrongdoing by others 30(1) If a person who is not an employee reasonably believes that he or she has information that could show that a wrongdoing has been committed or is about to be committed, the person may provide that information to the Ombudsman.</p>	<p>A person who is not a government employee may also disclose wrongdoing in or relating to the public service to the Ombudsman under this Act.</p>
<p>Information to be provided 30(2) Information provided to the Ombudsman under subsection (1) must be in writing and must include the following information, if known:</p> <ul style="list-style-type: none"> (a) a description of the wrongdoing; (b) the name of the person or persons alleged to <ul style="list-style-type: none"> (i) have committed the wrongdoing, or (ii) be about to commit the wrongdoing; (c) the date of the wrongdoing; (d) whether the information has already been provided to the department, government body or office concerned and a response received. 	<p>The disclosure must be in writing and must provide the details regarding the nature of the wrongdoing, when it occurred and the name of the person or persons who are responsible. It must also indicate whether the person has already disclosed the wrongdoing to the affected department or entity and whether a response has been received.</p>

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<p>Ombudsman may investigate 30(3) Upon receiving information under this section, the Ombudsman may investigate the wrongdoing. In that event, Part 3 applies, other than subsection 21(3) (protection from reprisal).</p>	<p>The Ombudsman may investigate a wrongdoing disclosed by an external person in the same manner as an investigation of a disclosure made by a government employee.</p>
<p>Report 30(4) The Ombudsman must give a copy of the report of an investigation under this section to the person who provided the information about the wrongdoing.</p>	<p>The person who made the disclosure must be provided with a copy of the Ombudsman's report on the matter.</p>
<p>Protection for private sector employee who provides information 31(1) No employer of a private sector employee shall take any of the measures listed in subsection (2) against an employee by reason only that</p> <p>(a) the employee has, in good faith, provided information to the Ombudsman about an alleged wrongdoing; or</p> <p>(b) the employer believes that the employee will do so.</p>	<p>It is an offence for a private sector employer to take a reprisal against one of his or her employees by reason only that the employee disclosed, or the employer believes the employee will disclose, a wrongdoing in or relating to the public service to the Ombudsman under this Act.</p>
<p>Prohibited measures 31(2) The measures prohibited by subsection (1) are</p> <p>(a) a disciplinary measure;</p> <p>(b) a demotion;</p> <p>(c) termination of employment;</p>	<p>Reprisal means discipline, demotion, termination or any other adverse employment action and includes a threat to take any such action against the employee.</p>

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<p>(d) any measure that adversely affects the employee's employment or working conditions; and</p> <p>(e) a threat to take any of the measures referred to in clauses (a) to (d).</p>	
<p>Other rights not affected 31(3) Nothing in this section affects any right of a private sector employee either at law or under a collective agreement or employment contract.</p>	<p>A private sector employee can pursue any remedy available to him or her under a collective agreement, employment agreement or otherwise in connection with an adverse employment action described in this section.</p>
<p>Meaning of "private sector employee" 31(4) In this section, "private sector employee" means an employee or officer other than an employee or officer of a department, government body or office.</p>	<p>This section does not apply to government employees as they are covered under other Parts of this Act.</p>
<p>Protection for person contracting with government 32 No person acting or purporting to act on behalf of the government, a government body or an office shall</p> <p>(a) terminate a contract;</p> <p>(b) withhold a payment that is due and payable under a contract; or</p> <p>(c) refuse to enter into a subsequent contract;</p> <p>by reason only that a party to the contract or a person employed by a party to the contract has, in good faith, provided information to the Ombudsman about an alleged wrongdoing in or relating to the public service.</p>	<p>It is an offence for a negative action to be taken against a private sector contractor in connection with a contract as a result of a disclosure to the Ombudsman of a wrongdoing in or relating to the public service by that person or one of his or her employees. Negative action means terminating the contract, withholding a payment that is due under the contract or refusing to enter into a subsequent contract.</p>

Provision	Comment
GENERAL OFFENCES	
<p>False or misleading statement 33(1) No person shall — in seeking advice about making a disclosure, in making a disclosure, or during an investigation — knowingly make a false or misleading statement, orally or in writing, to a supervisor, a designated officer or chief executive, or the Ombudsman, or to a person acting on behalf of or under the direction of any of them.</p>	<p>It is an offence to make a false or misleading statement in seeking advice or making a disclosure or during an investigation under this Act.</p>
<p>Obstruction in performance of duties 33(2) No person shall willfully obstruct a supervisor, designated officer or chief executive, or the Ombudsman, or any person acting on behalf of or under the direction of any of them, in the performance of a duty under this Act.</p>	<p>It is an offence to obstruct the supervisor, designated officer, chief executive or the Ombudsman (or their staff) in carrying out their responsibilities under this Act.</p>
<p>Destruction, falsification or concealment of documents or things 33(3) No person shall, knowing that a document or thing is likely to be relevant to an investigation under this Act,</p> <ul style="list-style-type: none"> (a) destroy, mutilate or alter the document or thing; (b) falsify the document or make a false document; (c) conceal the document or thing; or (d) direct, counsel or cause, in any manner, a person to do anything mentioned in clauses (a) to (c). 	<p>It is an offence to destroy, falsify or conceal any document or thing that is likely to be relevant to an investigation of a wrongdoing or to counsel someone else to do so.</p>
<p>Offence and penalty 33(4) A person who contravenes this section or sections 27, 31 or 32 is guilty of an offence and is liable on summary conviction to a fine of not more than \$10,000.</p>	<p>The penalty for contravention of any of the offence provisions is a fine of not more than \$10,000.</p>

Provision	Comment
<p>Commencement of prosecution 33(5) A prosecution under this Act may not be commenced later than two years after the day the alleged offence was committed.</p>	<p>A prosecution must be started within two years of the alleged offence.</p>
<p>LEGAL ADVICE</p>	
<p>Arranging legal advice 34 If the designated officer or Ombudsman is of the opinion that it is necessary to further the purposes of this Act, he or she may, subject to the regulations, arrange for legal advice to be provided to employees and others involved in any process or proceeding under this Act.</p>	<p>Subject to the regulations, legal advice may be provided to employees and others where the designated officer or the Ombudsman considers it necessary to further the purposes of this Act.</p>
<p>LIABILITY PROTECTION</p>	
<p>Protection from liability 35 No action or proceeding may be brought against a supervisor, designated officer or chief executive, or the Ombudsman, or a person acting on behalf of or under the direction of any of them, for anything done or not done, or for any neglect,</p> <p style="padding-left: 40px;">(a) in the performance or intended performance of a duty under this Act; or</p> <p style="padding-left: 40px;">(b) in the exercise or intended exercise of a power under this Act;</p> <p>unless the person was acting in bad faith.</p>	<p>A supervisor, designated officer, chief executive and the Ombudsman (and their staff) are protected from liability for things done and not done in carrying out their responsibilities under this Act provided that they are not acting in bad faith.</p>

Provision	Comment
REGULATIONS	
<p>Regulations 36 The Lieutenant Governor in Council may make regulations</p> <p>(a) designating a public sector body as a government body for the purposes of this Act;</p> <p>(b) designating an entity that receives all or a substantial part of its operating funding from the government as a government body for the purposes of this Act;</p> <p>(c) for the purpose of section 5, respecting the procedures to be followed in managing and investigating disclosures and reporting the outcome of investigations, including setting time periods for action;</p> <p>(d) exempting Acts or regulations from the application of section 15 where the exemption is in the public interest;</p> <p>(e) respecting the provision of legal advice under section 34, including determining the circumstances under which legal advice may be provided and the amounts that may be paid;</p> <p>(f) defining any word or phrase used but not defined in this Act;</p> <p>(g) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Act.</p>	<p>Regulations may be made under the Act as follows:</p> <ul style="list-style-type: none"> • adding government bodies to the application of the Act; • prescribing procedures that must be followed in managing, investigating and reporting on disclosures; • exempting certain Acts from the application of section 15 where it is in the public interest that the information protected by those Acts should remain confidential; • setting out the basis on which legal advice can be provided to persons under the Act, including setting financial limits; • defining words or phrases that are not defined in the Act; • dealing with any other matter considered necessary or advisable.

Provision	Comment
MISCELLANEOUS PROVISIONS	
<p>Conditional amendment 37 NOTE: This section contained an amendment to section 14 of this Act, which is now consolidated in that section.</p>	<p>Section 37 proclaimed in force April 1, 2009. Change of name to Chief Provincial Public Health Officer.</p>
<p>C.C.S.M. reference 38 This Act may be referred to as chapter P217 of the Continuing Consolidation of the Statutes of Manitoba.</p>	<p>CCSM reference</p>
<p>Coming into force 39(1) Subject to subsection (2), this Act comes into force on a day to be fixed by proclamation.</p> <p>Coming into force: section 37 39(2) Section 37 comes into force</p> <p style="padding-left: 40px;">(a) when section 10 of Bill 21, introduced in the Fourth Session of the 38th Legislature, entitled <i>The Public Health Act</i>, comes into force; or</p> <p style="padding-left: 40px;">(b) on the date that subsection 14(1) of this Act comes into force;</p> <p>whichever is later.</p> <p>NOTE: S.M. 2006, c. 35, except section 37, was proclaimed in force April 2, 2007. NOTE: Section 37 was proclaimed in force April 1, 2009.</p>	<p>The Act except section 37, was proclaimed in force April 2, 2007.</p> <p>Section 37 was proclaimed in force April 1, 2009.</p>

June 2012