

# **Whistleblower (Amendment) Bill**

## ARRANGEMENT OF SECTIONS

### *Section*

1. Section 1 of Act 720 amended
2. Section 2 of Act 720 amended
3. Section 3 of Act 720 amended
4. Section 6 of Act 720 amended
5. Section 8 of Act 720 amended
6. Section 10 of Act 720 amended
7. Section 11 of Act 720 amended
8. Section 12 of Act 720 amended
9. Sections 12A and 12B of Act 720 inserted
10. Section 14 of Act 720 amended
11. Section 15 of Act 720 amended
12. Section 16 of Act 720 amended
13. Section 17 of Act 720 amended
14. Section 19 of Act 720 amended
15. Section 21 of Act 720 amended
16. Section 23 of Act 720 amended
17. Section 24 of Act 720 amended
18. Section 27 of Act 720 amended
19. Section 31 of Act 720 amended
20. Section 31A of Act 720 inserted
21. Section 32 of Act 720 amended

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A  
**BILL**

ENTITLED

**WHISTLEBLOWER (AMENDMENT) ACT, 2013**

**AN ACT** to amend the Whistleblower Act, 2006 (Act 720) to widen the scope of the Act and to provide for related matters.

**PASSED** by Parliament and assented to by the President:

**Section 1 of Act 720 amended**

1. The Whistleblower Act, 2006 (Act 720) referred to in this Act as the principal enactment is amended in section 1

- (a) by the substitution for paragraph (d) of subsection (1) of “(d) that there has been, there is or there is likely to be waste, misappropriation or mismanagement of resources in an institution so as to affect the public interest”;
- (b) by the deletion in paragraph (e) of subsection (1) of “or” at the end of paragraph (e);
- (c) by the insertion after paragraph (f) of subsection (1) of new paragraphs (g) and (h)

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- “(g) that a person or institution has engaged or is engaging in improper conduct; or
  - (h) that any matter in paragraphs (a) to (g) has been, is being or is likely to be deliberately concealed”; and
- (d) by the insertion of new subsections (5), and (6)

“(5) If a specific payment is made for the disclosure in the absence of independent corroboration, that factor will be considered in assessing whether the person has good faith and reasonable cause to believe the information and alleged impropriety are substantially true.

(6) A disclosure of information in respect of which a claim to legal professional privilege can be maintained in legal proceedings is not a disclosure if the disclosure is made by a person to whom the information had been disclosed in the course of obtaining legal advice.”

**Section 2 of Act 720 amended**

2. The principal enactment is amended in section 2(a) and (b) by
- (a) the insertion of the word “ex-employee” after the word “employee” and “ex-employer” after the word ‘employer’; and
  - (b) by the insertion of new paragraphs (d), (e), (f), and (g)
    - “(d) although the person making the disclosure is not able to identify a particular person to whom the disclosure relates;
    - (e) although the improper conduct or impropriety has occurred before the commencement of the Act;
    - (f) in respect of information acquired by a person while the person was an officer of an institution or an officer of a private body; or
    - (g) of any improper conduct of a person while that person was an officer of an institution or an officer of a private institution or body.”

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**Section 3 of Act 720 amended**

3. The principal enactment “is amended by the substitution for Revenue Agencies Governing Board in section 3 (1)(q) of “Ghana Revenue Authority.”

**Section 6 of Act 720 amended**

4. Section 6 of the principal enactment is amended in subsection 1(c) by the insertion of the words

“and not disclosing the whistleblower’s identity or identifying information without prior consent or reasonable advance warning when disclosure is required by law” after “impropriety”.

**Section 8 of Act 720 amended**

5. Section 8 of the principal enactment is amended by the insertion of a new subsection (5)

“(5) Any person who obstructs an authorised officer in the performance of functions under this Act commits an offence under section 24 of the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456) and is liable on summary conviction to a fine of not more than two hundred penalty units or in default of payment, to a term of imprisonment of not more than six months or to both the fine and the imprisonment.”

**Section 10 of Act 720 amended**

6. Section 10 of the principal enactment is amended by the insertion of a new subsection (4) after subsection (3)

“(4) Despite subsection (1), only a person subject by law to the direction of the Attorney-General is required to report to the Attorney-General on an investigation.”.

**Section 11 of Act 720 amended**

7. Section 11 of the principal enactment is amended by renumbering the existing provision as subsection (1) and the insertion of new subsections (2), (3), (4) and (5).

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“(2) The Attorney-General or an investigating agency may provide the whistleblower with feedback on the action taken within a reasonable time where it is considered desirable and shall obtain the whistleblower’s confidential comments on the findings before closing an investigation.

(3) The comments and response of the whistleblower shall be included in the final report of the Attorney-General or the investigative agency.

(4) Where the Attorney-General considers it desirable to provide the whistleblower with feedback on the action taken, the Attorney-General shall also provide the person or head of the institution accused of impropriety with feedback.

(5) The comments and response of the accused person or head of institution shall be included in the final report of the Attorney-General or the investigating agency.”

**Section 12 of Act 720 amended**

8. Section 12 of the principal enactment is amended

- (a) by the insertion in subsection (1) of “and any person related to or associated with the whistleblower” between ‘A whistleblower’ and ‘shall’;
- (b) by the insertion at the end of the subsection (1) of “or because the whistleblower refuses to contravene the law”;
- (c) by the repeal in subsection 2(a) of “or” at the end of paragraph (viii);
- (d) by the insertion in subsection (2)(a) of a new paragraph (x)  
“(x) prevented from receiving any payment due without reasonable explanation”;
- (e) by the substitution for subsection (3) of  
“(3) A whistleblower shall not be considered as having been subjected to victimisation if
  - (a) by the preponderance of the evidence it is established that the activity protected by this Act was not a contributory factor to the alleged victimisation,

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- (b) it is established by clear evidence that the activity protected by this Act did not contribute to the alleged victimisation, or
  - (c) the person against whom the complaint is directed has the right in law to take the action complained of and the action taken is shown to be unrelated to the disclosure made.”;
- (f) by the insertion after subsection (3) of new subsections (4), (5), (6), (7), (8) and (9)

“(4) Whistleblower protection conferred under section 1 (4) will not be affected in the event that there is disciplinary action or prosecution of the person against whom the disclosure of improper conduct is taken.

(5) Where a whistleblower is a witness in a matter before a High Court that relates to information given by the whistleblower, the High Court may require the whistleblower to give evidence in camera or behind a screen if the High Court considers it necessary for the protection of the whistleblower.

(6) A key witness in the matter may also give evidence in camera or behind a screen if the High Court or the Commission considers it necessary for the protection of the witness.

(7) Where an employee has made a protected disclosure and the employee believes that the disclosure may affect the employee adversely, the employee shall on personal request and if reasonably practicable, be transferred

(a) from the post or position occupied by the employee at the time of the disclosure to another post or position in the same division or another division of the employer; or

(b) from the Ministry, Department or Agency where the employee has been working to another Ministry, Department or Agency.

(8) Confidential information shall not be disclosed or be ordered or required to be disclosed in civil, criminal or other proceedings in any court, tribunal or other authority.

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(9) If any books, documents or papers which are in evidence or liable to inspection in civil, criminal or other proceedings in any court, contain an entry in which a whistleblower is named or described or which might lead to the identity of the whistleblower, the court, shall cause the relevant passage to be concealed from view or be obliterated in so far as is necessary to protect the whistleblower from identity, but no further.”.

**Section 12A and 12B of Act 720 inserted**

9. The principal enactment is amended by the insertion after section 12 of new sections 12A and 12B

**“Protected disclosure to a lawyer or head of a religious body**

**12A.** A disclosure made

- (a) to a lawyer or to a person whose occupation involves the giving of legal advice, and
- (b) to a head of a religious body with the object of, and in the course of obtaining legal advice is a protected disclosure.

**Revocation of whistleblower protection**

**12B.** (1) The Attorney-General shall revoke the protection of the whistleblower conferred under sections 1(4) and 12 if the Attorney-General is of the opinion, based on investigation or in the course of investigation that,

- (a) the whistleblower has personally participated in the improper conduct disclosed;
- (b) the whistleblower wilfully made a disclosure of improper conduct a material statement which the whistleblower knew or believed to be false or did not believe to be true;
- (c) the disclosure of improper conduct is frivolous or vexatious;
- (d) the disclosure of improper conduct principally involves questioning the merits of government policy, including policy of a public body;

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- (e) the disclosure of improper conduct is made solely or substantially with the motive of avoiding dismissal or other disciplinary action; or
- (f) the whistleblower committed an offence under this Act, in the course of making the disclosure or providing further information, commits an offence under this Act.

(2) If the whistleblower protection has been revoked, the Attorney-General shall give a written notice to that effect to the whistleblower.

(3) Any person aggrieved by the decision of the Attorney-General may refer the decision of the Attorney-General to court for determination.

(4) The High Court may make an order for the preservation of the whistleblower protection and may also make consequential orders considered necessary to give effect to the order for relief.”.

**Section 14 of Act 720 amended**

10. The principal enactment is amended in subsection (3) of section 14 by the repeal of

“or” at the end of paragraph (b) and by the addition of new paragraphs (d) and (e)

“(d) back pay for lost wages with interest; or

(e) any other action necessary to eliminate the direct or indirect effects of victimisation prohibited by this Act.”.

**Section 15 of Act 720 amended**

11. Section 15 of the principal enactment is amended by

(a) the repeal of “except that an action shall not be commenced in a court unless the complaint has first been submitted to the Commission under section 13”;

(b) by the renumbering of the section as subsection (1); and

(c) by the insertion of a new subsection

“(2) A whistleblower who has been subjected to victimisation may request the Commission to settle a



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claim for damages for breach of contract or for another relief or remedy to which the whistleblower may be entitled.”.

**Section 16 of Act 720 amended**

12. Section 16 of the principal enactment is amended by
- (a) the insertion of “or High Court” after “Commission” wherever it appears; and
  - (b) the deletion of “or hearing” in line 1.

**Section 17 of Act 720 amended**

13. Section 17 of the principal enactment is amended in paragraph (b) of subsection (1) by the insertion of “or any person related to or associated with the whistleblower” at the end of the paragraph.

**Section 19 of Act 720 amended**

14. Section 19 of the principal enactment is amended by the substitution for subsection (1)(a) of

“(1) (a) purports to prevent the employee from making a disclosure of improper conduct or impropriety.”

**Section 21 of Act 720 amended**

15. Section 21 of the principal enactment is amended
- (a) by the repeal of “and” at the end of paragraph (a);
  - (b) by the insertion of a new paragraph (b)
    - “(b) 20% of any amount recovered under section 4, and”;
    - and
  - (c) by the renumbering of paragraph (b) as paragraph (c).

**Section 23 of Act 720 amended**

16. Section 23 of the principal enactment is amended
- (a) by the renumbering of the section as subsection (1); and
  - (b) by the insertion of a new subsection
    - “(2) Despite subsection (1), a whistleblower may be given a reward by the Board even though there has not been a conviction.”.

**Section 24 of Act 720 amended**

17. The principal enactment is amended by the repeal of section 24 (b).

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**Section 27 of Act 720 amended**

18. Section 27 of the principal enactment is amended by the insertion of subsections (5), (6) and (7) after subsection (4)

“(5) A whistleblower

- (a) shall not receive a monetary reward from the Fund where there is a finding of bad faith and
- (b) who has acted in bad faith may be ordered by the Commission to pay compensation to the person against whom the allegation is made in the amount determined by the Commission.

(6) A monetary reward shall not be made from the Fund for an anonymous disclosure where the identity of the whistleblower is subsequently revealed.

(7) An investigative agency may recommend that an award be paid to the whistleblower by the Board.”

**Section 31A of Act 720 inserted**

19. The principal enactment is amended by the insertion of a new section 31A after section 31.

**“Obligations of employer**

**31A** (1) An employer shall introduce measures to

- (a) educate employees on the Whistleblower Act, 2006 (Act 720),
- (b) ensure that employees are aware that victimisation is not acceptable, and
- (c) make it clear that the disclosure of an impropriety to a prescribed person is acceptable.

(2) The Commission shall ensure that employers educate employees on the Act.”

**Section 32 of Act 720 amended**

20. Section 32 of the principal enactment is amended

- (a) by the substitution of the definition of “disclosure” for “disclosure” in addition to the meaning in section 1 (i), includes a revelation of information as regards the conduct of an employer or an employee of that employer, made by an employee who has reason to believe that the information concerned shows or tends to show one or more of the following:

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- (a) that an economic crime or other criminal offence has been committed, is being committed or is likely to be committed;
  - (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;
  - (c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
  - (d) that the health and safety of an individual has been, is being or is likely to be endangered;
  - (e) that the environment has been, is being or is likely to be damaged; or
  - (f) that any matter referred to in paragraphs (a) to (e) has been, is being or is likely to be deliberately concealed”;
- (b) by the substitution for the definition for “economic crime” of “economic crime” includes,
- (a) an illegal act committed for financial gain or contrary to public interest, or
  - (b) an act which
    - (i) involves the loss, mismanagement or misappropriation of public funds, or
    - (ii) causes the loss, mismanagement or misappropriation of public funds.”
- (c) by the insertion of new definitions in alphabetical order of
- ““bad faith” includes publicising an impropriety unless the criterion for public disclosure in section 3 (3) has been satisfied;
  - “discrimination” in the context of victimisation means being
    - (a) subject to any disciplinary action;
    - (b) demoted;
    - (c) subjected to a term or condition of employment retirement which is altered to the disadvantage of the employee;

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(d) refused a reference or being provided with an adverse reference from the employer; or

(e) being deprived appointment to any employment, profession or office;

“Improper conduct” includes the behaviour or actions of a person or institution that involves a breach of trust, misuse of confidential information seeking a bribe or inducement”;

“impropriety” includes economic crime, law breaking or non-compliance with law, miscarriage of justice; and

“investigative agency” includes the Commission, the Economic and Organised Crime Office and the National Media Commission.”.

Date of *Gazette* notification: 31st July, 2013

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### **MEMORANDUM**

The Whistleblower Act, 2006 (Act 720) came into force on the 20th October, 2006. Though a groundbreaking piece of legislation at the time, weaknesses in the Act have become apparent. Many people are not aware that there is legal protection for ordinary people to make disclosures in the public interest without fear of victimisation. The investigative agencies responsible for receiving disclosures of impropriety, the Economic and Organised Crime Office, the Commission on Human Rights and Administrative Justice and the Attorney-General's Department have not handled many cases.

Whistleblowing plays a significant role in passing critical information from the lower levels of an organisation to higher officials. Whistleblowers are people who will raise voices about wrong doing. They are agents of accountability who provide evidence of corruption and exercise the freedom to warn. Whistleblowing legislation provides protection where the disclosure is made under the law, disclosures to journalists do not fall within the law and are therefore not protected. This distinction was not clearly brought out in Act 720.

Act 720 is perceived to have a public sector bias although it actually applies to public and private institutions. This perception is because "person" is defined in section 32 to include an individual, a body of persons, an institution or a corporation. Section 1(1)(b) provides for disclosure by a person as defined. Section 1(1)(d) of the Act however restricts the disclosure to waste, misappropriation or mismanagement of public resources in a public institution. The provision is therefore restricted to State actors as far as waste, misappropriation or mismanagement is concerned.

The impression created by this provision is that public resources can only be wasted or mismanaged in a public institution, but this is not entirely correct. Private persons can also waste or mismanage public resources. Illegal tapping of electricity and the illegal connection to water supplies provide examples of instances where private persons may waste or undermine the management of public resources.

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The fight against corruption requires the efforts of State, non-state actors, citizens and the media. Corrupt practices should not be tolerated by anyone and the protection given to whistleblowers should be used in the national interest. A person who illegally taps water or electricity should be reported to the authorities.

Corporate irresponsibility of a listed company is another situation where an adverse effect, which causes serious negative implications for the national economy, can occur by a non-state actor. Whistleblowers in this context should be protected by the law. The law must provide for the safeguard of public resources from waste, misappropriation and mismanagement by a private person. The law should therefore apply to private persons as well as institutions that do not utilise public funds. Companies listed on the Ghana Stock Exchange which do not utilise public funds are however currently excluded from the law and to correct this, section 1(1)(d) requires amendment by deletion of the word “public” that qualifies “institutions” in that subsection. If this is done, the subsection will apply to both public and private institutions. Accordingly, *clause 1* of the Bill substitutes section 1(1)(d) to broaden the scope of the provision.

This amendment to section 1(1)(d) addresses the fact that our anti-corruption legislation generally tends to focus on State actors to the exclusion of non-state actors. This emphasis is not in consonance with the international template on anti-corruption provided in the United Nations Convention against Corruption ratified by Parliament on 18<sup>th</sup> December, 2005.

The long title of Act 720 makes reference to illegal and unlawful practices but appears to exclude corrupt practices which are also not in the national interest but which constitute improper conduct. The phrase ‘improper conduct’ has been added to the list of definitions in section 32 and a new sub section 1(g) is added in the amendment to cover the type of improper conduct that can also be described as an “impropriety”.

The insertion of a new paragraph (h) to section 1, makes it irrelevant if the malpractice, the subject of blowing the whistle, was past, present or prospective. It also does not matter if the concern relates to a particular conduct or to a state of affairs.

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Credibility is the key factor in whistleblowing, what matters is the value of revealing information or evidence that there has been contravention of a law or betrayal of public trust. The issue of specific payment as a factor to address good faith is taken account of in a new subsection (5) of section 1 of the Act. It covers not only payments of money but also benefits in kind and a situation where the benefit does not go directly to the whistleblower but to a member of the whistleblower's family if the purpose was for personal gain.

The import of the last amendment to section 1, subsection (6), is that a lawyer cannot be compelled in court to give evidence about a matter. Neither the lawyer nor the staff in the office of the lawyer can make a protected disclosure about a matter. This does not however affect the ability of the lawyer to make disclosures on the instructions of a whistleblower who is the client of the lawyer.

The current Act 720 does not comprehensively deal with the circumstances in which or by whom the disclosure of impropriety can be made. Currently, under section 2, the persons who qualify to make a disclosure of impropriety are restricted to employees in respect of an employer, an employee in respect of another employee or a person in respect of another person or institution. Widening the scope of circumstances in which and by whom reports can be made is necessary to encourage "tipping off" to achieve the purpose for which the legislation was enacted. Section 2(a) and (b) are amended in *clause 2* of the Bill to include ex-employees and to emphasise the notion that wrongdoing maybe reported by a person to whom allegiance is no longer owed.

The insertion of paragraphs (d) to (g) to section 2 widens the circumstances in which the disclosure or impropriety may be made.

The minor amendment in *clause 3* reflects the enactment of the Ghana Revenue Authority Act, 2009 (Act 791) to replace the Revenue Agencies Governing Board which has ceased to exist.

Strict confidentiality standards to protect the identity of the whistleblower are necessary to protect those frightened by public exposure although this should not be used to sustain the secrecy of misconduct that should be publicly exposed. This is the reason for the amendment to section 6 in *clause 4*.



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*Clause 5* amends section 8 by the addition of a new subsection (5) which makes it an imprisonable offence to obstruct an authorised officer in the performance of the officer's functions. This addition serves to make the practical applicability of Act 720 more effective.

*Clause 6* amends section 10 to clarify the position that it is only investigative agencies under the Attorney-General that are obliged to report to the Attorney-General on an investigation. The independence of the Commission on Human Rights and Administrative Justice is acknowledged here.

The need to provide a whistleblower with feedback is stated in *clause 7* by an amendment to section 11. The amendment provides that where the Attorney-General or an investigative agency considers it expedient, feedback on the action taken on the impropriety should be given to the whistleblower who may provide confidential comments to be included in the report of the Attorney-General or the investigative agency.

To avoid and prevent fraudulent, malicious or vexatious claims being made and to assist in the preparation of a fully informed comprehensive report, it is recommended that the accused person or institution is also given an opportunity to provide feedback on the Attorney-General's findings. This omission is corrected by the insertion of subsections (4) and (5) to section 11.

Although the Police Service Act, 1970 (Act 350) and Criminal Offences Act, 1960 (Act 29) prohibit and make it an offence for a person to obstruct an officer carrying out an investigation, a similar provision is imported into the Act to ensure its effectiveness and applicability.

The provisions in section 12 of Act 720 on protection of whistleblowers have been strengthened in *clause 8* of the Bill. Generally speaking, the protection offered to a whistleblower relates to the treatment received, most invariably from an employer or other employees as a result of making a report. The amendment in subsection (1) extends the protection to where the whistleblower refuses to contravene the law and to include persons who may not in fact be related to the whistleblower, thus extending protection to the Ghanaian in the wider sense of the word. This has also been reflected in the amendment in *clause 6(a)* and *(b)*.



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A further protective provision against discrimination has been included by the insertion of paragraph (x) to subsection (2) of section 12, to enable the whistleblower receive any payment due.

A new subsection (3) has been substituted for section 12(3). The legal burden of proof in section 12(3) of the Act has been modified in *clause 8* to provide a fair balance for the establishment of proof of victimisation. A whistleblower should be distinguished from a protected witness. The former has reported but may or may not become a witness in Court. Where the whistleblower becomes a witness, the whistleblower should be protected.

The new subsection (4) provides that whistleblower protection will not be affected in the event that there is disciplinary action or prosecution of the person against whom the disclosure of improper conduct is taken. The new subsection (5) provides for the concealment of the identity of the whistleblower if considered necessary by the court. The amendment in the new subsection (6) provides witness protection to key witnesses. The new subsection (7) increases the occupational detriment provisions found in section 12 of the Act in the best interest of the whistleblower by providing for the transfer of an employee. Further, the new subsections (8) and (9) of section 12 ensure that the possibility of the whistleblower's identity becoming known particularly during a court trial does not occur.

*Clause 9* of the Bill adds new provisions, sections 12A and 12B. Section 12A is on protected disclosure to a lawyer or a leader of a religious body. This enables a whistleblower to seek legal advice about a concern and to be fully protected in doing so. The disclosure does not have to be made in good faith to be protected. This provision means that a person with a concern who intends to disclose the concern for some ulterior motive or leverage is safely able to obtain the legal advice that the conduct jeopardises the protection of under the Act.

The lawyer on the other hand cannot on personal volition make a protected disclosure of the information owing to the amendment in *clause 1* of the Bill to introduce section 1(6). This is subject to the right of the client to instruct the lawyer to make a disclosure. In this case, the disclosure will be considered as made by the client and will only be protected if it is made in accordance with provisions of the Act. It is considered expedient to extend this to the head of a religious body because of the accessibility such a person has to a member of the public.

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To prevent abuse of the protection provided by the Act and to discourage “gold diggers”, the Act has been amended to include a new section 12B under which the whistleblower’s protection can be revoked if in the opinion of the Attorney-General, it is necessary to do so based on or in the course of investigations by the Attorney-General.

The concept of “make whole relief” has been introduced in *clause 10* by an amendment to section 14 of the Act. In order that whistleblowers are not encouraged to remain as silent observers, they need to be assured that by blowing the whistle they will not be worse off. This amendment provides for back pay for lost wages and any other action to eliminate the direct or indirect effects of victimisation.

Section 15 of the Act has been amended in *clause 11* because of the due process of law provision in article 125 of the Constitution and the fact that a person has the right to go to court, more especially because there is now a Human Rights Court as a Division of the High Court.

The amendment to section 16 in *clause 12* of the Bill enables relevant fora to authorise legal assistance by the addition of the High Court. Authorities with the competence to resolve a reprisal case should have the mandate to see that the whistleblower has the right to legal assistance. The words “or hearing” have been repealed by the amendment because they are superfluous.

The amendment also enables a whistleblower who has been victimised to request the Commission on Human Rights and Administrative Justice to settle a claim for damages for breach of contract or for any other relief the person is entitled to. Additional protection in respect of the whistleblower’s property is provided for in the amendment to section 17(1)(b) in *clause 13*.

Section 19(1)(a) is amended in *clause 14* to emphasise the fact that a gagging provision in a contract of employment should not preclude a person from making a disclosure.

*Clause 15* amends section 21 to add a new source of funding to the Bill which is twenty percent of the money recovered when a disclosure is made.

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The amendment to section 23 in *clause 16*, enables the Legal Service Board to give a reward even when there has not been a conviction. It is felt that the discretion given to the Attorney-General and the Inspector-General of Police is too wide and accordingly section 24(*b*) is repealed in *clause 17*.

Section 27 of the Act is amended in *clause 18* of the Bill to prevent a whistleblower from receiving a monetary reward from the Fund where there is evidence of bad faith or where the whistleblower has made a personal gain from the disclosure. This will deal with a situation where the whistleblower has breached confidentiality. Furthermore, a whistleblower who has acted in bad faith may be ordered by the Commission on Human Rights and Administrative Justice to compensate the person against whom the allegation was made. Bad faith is interpreted to include publicising an impropriety unless the criterion for public disclosure in the amended section 3(3) have been satisfied. Monetary rewards are not to be paid for anonymous disclosures where the identification of the whistleblower is subsequently revealed. The amendment also permits an investigative agency to recommend that an award be paid to a whistleblower by the Legal Service Board.

*Clause 19* introduces a new section 31A which imposes an obligation on employers to sensitise employees on the tipping off provisions in the Act. Employers are to educate employees that victimisation is not acceptable and that disclosures to prescribed persons are acceptable.

*Clause 20* amends section 32, the interpretation section of the Act. The definitions for “disclosure” and “economic crime” are substituted. The definition of “economic crime” in section 32 of Act 720 is too narrow and excludes crime related to narcotics, advance fee fraud, “419 scams” among others. The new definition includes illegal acts. Other new definitions for “bad faith”, “discrimination” “impropriety” and “investigative agency” have also been included in the *clause*.

These amendments to the Whistleblower Act, 2006 (Act 720) should make the law more implementable and make it clear that going to a prescribed person to make a disclosure is acceptable. The amendments to

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the Whistleblower Act, 2006 (Act 720) will strengthen the anti-corruption initiative in the country in the best interest of good governance and have also been recommended by the Inter-governmental action group against money laundering in West Africa, GIABA, an agency of ECOWAS which conducted an assessment of the anti-money laundering and counter financing regime in Ghana in April 2009.

Finally, in accordance with section 11 of the Interpretation Act, 2009 (Act 792), the Attorney-General may authorise the reprinting of an enactment as amended. This will consolidate the law after the amendment Bill has come into force.

MARIETTA BREW APPIAH-OPONG (MRS.)  
*Attorney General and Minister responsible for Justice*

Date: 22nd July, 2013.