

Briefing Note: Amendments to Whistleblower Protection Act 2010

Prepared by the Center to Combat Corruption & Cronyism (C4 Center)

For over a decade, C4 Center has persistently championed reforms to the Whistleblower Protection Act (WPA) 2010 – through community engagement, credible research, government consultations, and more – driven by the belief that protecting those who expose corruption is essential to strengthening democratic accountability.

On 22 July 2025, the Dewan Rakyat passed the Whistleblower Protection (Amendment) Act 2025 – the culmination of concerted efforts by civil society organisations, activists, and academics who have criticised the limitations of the existing mechanisms under the Whistleblower Protection Act 2010.

KEY AMENDMENTS:

1. Enabling whistleblowers to disclose without risking criminal prosecution

Previously, the proviso to Section 6 of the Act denied whistleblowers protection if their disclosure violated other laws, including secrecy laws like the Official Secrets Act 1972 and Section 203A of the Penal Code. This made it extremely risky to report misconduct involving classified information, undermining public sector accountability.

With the proviso removed, this major barrier has been lifted. Read with Section 7, the law now appears to protect whistleblowers from criminal liability, provided they reasonably believe the misconduct occurred.

Potential challenges:

Where the WPA 2010 conflicts with laws prohibiting disclosures, legal challenges may arise around the full extent of immunity from criminal proceedings under the WPA 2010. Furthermore, it may still be possible for secrecy laws to be amended separately to explicitly supersede the provisions of the WPA 2010. Either scenario may lead to a reversion to the situation prior to the removal of the proviso under Section 6.

2. Introducing discretion in the revocation of protection

Previously, Section 11 of the Act required automatic revocation of protection in certain cases, such as when the whistleblower was involved in the misconduct or acted to avoid disciplinary action, with no option for discretion.

The new Section 11(1A) changes this by allowing enforcement agencies to maintain protection for whistleblowers who participated in the misconduct. This acknowledges that insider involvement is often key to exposing corruption and that expecting whistleblowers to have entirely “clean hands” is unrealistic.

Potential challenges:

There has been no announcement on publicly available guidelines for how enforcement agencies are to utilise their new discretionary powers, such as through illustrations or required elements per case. This absence may lead to inconsistent and unjust use of this discretion. Here, trust is vital - whistleblowers may still be discouraged from coming forward if they are unclear on whether they will receive protection or not.

3. A “temporary” Whistleblower Protection Committee

The amendment Act also introduces a newly established Whistleblower Protection Committee to “oversee the implementation” of the Whistleblower Protection Act 2010 and “obtain statistics and data relating to complaints” received by enforcement agencies. The establishment of this committee will work towards improving the level of coordination between enforcement agencies, especially in helping whistleblowers identify the most effective channel for disclosures.

However, Deputy Minister in the Prime Minister’s Department (Law and Institutional Reform) M Kulasegaran stated that the committee is merely a “stop-gap” measure until a Federal Ombudsman office is established, slated for the next Parliamentary session. He stated that upon establishment the Ombudsman will assume the committee’s responsibilities as the primary oversight body over whistleblower protection. Any plan to create an Ombudsman office must be one that ensures the body possesses the necessary independence to oversee effective and impartial implementation of the Act.

Potential Challenges:

While the Ministry has provided several assurances for the committee’s temporary nature, this is not reflected in the wording of the amendment. Therefore, in the event that the Ombudsman is not established, the Whistleblower Protection Committee may remain permanently. Concerns have been raised by MPs and civil society organisations over the lack of meaningfully described functions and powers of the committee. Further issues include the appointment process of members to the committee, which is under the full discretion of the Minister and includes no criteria for appointment, including no specified posts for academia, civil society, and other relevant actors.

FURTHER REFORMS STILL NEEDED

Although these amendments provide a marked improvement to the existing whistleblower protection framework, areas of concern still persist. Among them is the government’s refusal to expand disclosure channels beyond enforcement agencies. This presents a problem especially in instances where enforcement agencies themselves are implicated in corruption – expanding channels to include civil society organisations, Members of Parliament, and the media will help to allay these concerns.

The government too must ensure that whistleblowing is facilitated beyond the mere lettering of the law. Currently, the Act fails to place any obligation upon the government to provide or facilitate access to legal, psychological, or social support services for whistleblowers, which must be remedied as well.

For more information on whistleblower protection in Malaysia, download C4 Center’s reports:

Whistleblower Protection or Suppression? A Decade of Section 203A of the Penal Code (2025)

<https://c4center.org/whistleblower-protection-or-suppression-a-decade-of-section-203a-of-the-penal-code/>

Gaps in the Act: A Legal Analysis of Malaysia’s Current Whistleblower Protection Laws (2021)

<https://c4center.org/gaps-in-the-act-a-legal-analysis-of-malysias-current-whistleblower-protection-laws/>