

Serial 112
Public Interest Disclosure Amendment Bill 2010
Mr Mills

A Bill for an Act to amend the *Public Interest Disclosure Act*

NORTHERN TERRITORY OF AUSTRALIA

PUBLIC INTEREST DISCLOSURE AMENDMENT ACT 2010

Act No. [] of 2010

Table of provisions

1	Short title	1
2	Act amended	1
3	Amendment of section 4 (Definitions)	1
4	Repeal and substitution of section 11	2
	11 Making public interest disclosure	
5	Amendment of section 14 (Protection from liability for making public interest disclosure)	4
6	New Part 7	4
	Part 7 Transitional matter for Public Interest Disclosure Amendment Act 2010	
59	Definitions	
60	Application	



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2010

An Act to amend the *Public Interest Disclosure Act*

[Assented to [] 2010]
[Second reading [] 2010]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Public Interest Disclosure Amendment Act 2010*.

2 Act amended

This Act amends the *Public Interest Disclosure Act*.

3 Amendment of section 4 (Definitions)

Section 4

insert (in alphabetical order)

journalist means a person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.

4 **Repeal and substitution of section 11**

Section 11

repeal, substitute

11 **Making public interest disclosure**

- (1) Except as provided in subsection (2), a public interest disclosure must be made to the following:
 - (a) if the disclosure relates to an MLA other than the Speaker – the Speaker or Commissioner;
 - (b) otherwise – the Commissioner or responsible chief executive.
- (2) A person may make a public interest disclosure to an MLA (other than the Speaker or an MLA to whom the disclosure relates), or a journalist, if:
 - (a) the person has already made a public interest disclosure (the **earlier disclosure**) under subsection (1) in relation to substantially the same public interest information; and
 - (b) the person reasonably believes:
 - (i) no action has been taken by the Commissioner, the Speaker, or a public body or public officer, as a response to the earlier disclosure within 6 months after the earlier disclosure was made; or
 - (ii) if any such action has been taken at any time – the action is inadequate or inappropriate; and
 - (c) the person is not seeking any reward or other advantage for making the disclosure; and
 - (d) for a disclosure to a journalist – the person reasonably believes any one or more of the following circumstances exist:
 - (i) property or the environment is or has been damaged, or there is an imminent risk of any such damage, as a result of the lack of action, or lack of adequate or appropriate action, mentioned in paragraph (b);
 - (ii) an individual is or has been harmed, or there is an imminent risk of any such harm, as a result of the lack of action, or lack of adequate or appropriate action, mentioned in paragraph (b);

-
- (iii) any other circumstance prescribed by regulation.
- (3) A public interest disclosure under subsection (1) or (2):
- (a) may be made orally or in writing, but must be made in accordance with the procedure prescribed by regulation; and
 - (b) may be made anonymously.
- (4) Without limiting subsection (2)(b), if the earlier disclosure was made or referred to the Commissioner, the person may form a reasonable belief covered by that subsection as a result of the Commissioner:
- (a) deciding not to investigate the earlier disclosure; or
 - (b) deciding to discontinue the investigation of the earlier disclosure.
- (5) Without limiting subsection (2)(c), a reference in that subsection to an advantage includes a reference to the avoidance of the termination of, or any disciplinary action relating to, the person's employment.
- (6) A person making a public interest disclosure under subsection (2) (other than a disclosure made anonymously) must give the MLA or journalist a copy of each document in the person's possession that relates to any of the following:
- (a) correspondence between the person and the person to whom the earlier disclosure was made about the earlier disclosure;
 - (b) response about the earlier disclosure from the person to whom the earlier disclosure was made.
- (7) Subsection (2) does not prevent a person from making public interest disclosures in relation to substantially the same public interest information to more than one person under that subsection.

Examples for subsection (7)

- 1 A person made public interest disclosures in relation to substantially the same public interest information to 2 MLAs under subsection (2).
- 2 After a person has made a public interest disclosure to an MLA under subsection (2), the person made another public interest disclosure in relation to substantially the same public interest information to a journalist under that subsection.

5 Amendment of section 14 (Protection from liability for making public interest disclosure)

Section 14(1), after "public interest disclosure"

insert

in accordance with section 11

6 New Part 7

After section 58

insert

Part 7 Transitional matter for Public Interest Disclosure Amendment Act 2010

59 Definitions

In this Part:

amending Act means the *Public Interest Disclosure Amendment Act 2010*.

commencement means the day on which the amending Act commences.

60 Application

A person may make a public interest disclosure under section 11 as amended by the amending Act even though the alleged improper conduct occurred before the commencement.