

Cover Page:**Proposed Amendments to Employment Regulations 2019**

The following provisions to be added to the Employment Regulations 2019:

PART 10: PROTECTED DISCLOSURES**58. Retaliation by Employer**

- (1) In this section a Protected Disclosure has the meaning set forth in section 4(1) of the Whistleblowing Protection Regulations [202●].
- (2) An Employee shall not be in breach of subsection 10(g) of these Regulations for making a Protected Disclosure.
- (3) An Employer shall not subject an Employee to any civil or contractual liability for making a Protected Disclosure. An Employer shall not enforce any contractual, civil or other remedy against an Employee for making a Protected Disclosure.
- (4) An Employer and any related party of the Employer must not retaliate, or threaten to retaliate, against an Employee because the Employee intends to make or has made a Protected Disclosure.
- (5) Retaliation includes, but is not limited to:
 - (a) dismissing the Employee;
 - (b) retiring the employee, or requiring or causing the Employee to retire or resign;
 - (c) refusing or omitting to offer or afford to the Employee the same terms of employment, conditions of work, fringe benefits, or opportunities for training, promotion, and transfer as are made available to other employees of the same or substantially similar qualifications, experience, or skills employed in the same or substantially similar circumstances;
 - (d) otherwise subjecting the Employee to any action which is reasonably likely to cause detriment or disadvantage, whether due to any act or failure to act by the Employer or a related party of the Employer; and
 - (e) organising to do anything described in subsections (a)-(d).
- (6) Where an Employer or any related party of an Employer retaliates against an Employee contrary to section (4) in connection with making a Protected Disclosure the Employee may apply to the Court for a declaration to that effect and the Court:
 - (a) may order the Employer to make an award of compensation to the Employee of such amount as the Court considers just and equitable in all the circumstances having regard to -

- (i) the Employer's default in failing to comply with its obligations under section 58;
 - (ii) any injury to feelings incurred by the Employee; and
 - (iii) any loss sustained by the Employee which is attributable to the matters complained of; and
- (b) may give directions to the Employer that, within a specified period, the Employer shall take specified steps for the purpose of obviating or reducing the adverse effect of any matter to which the proceedings relate on the Employee or any other person. Where an Employer fails to comply with any such recommendation within the period specified by the Court it shall be liable to a fine not exceeding level 8 on the Standard Fines Scale.