

CONCLUDING REMARKS

Drawing from the research conducted, both in South Africa and comparatively, the following proposals for possible amendments are made:

- (a) The definition of occupational detriment should be expanded to include persons who are not employees but who have disclosed in terms of the PDA. 'Occupational detriment' should be changed to 'detrimental action' or improper conduct to avoid a narrow interpretation of who may make a disclosure.
- (b) Consideration should also be given to inclusion of detrimental action by fellow employees.
- (c) Improved measures to keep a protected disclosure confidential where information might identify the discloser, except in circumstances where, among others, the discloser consents to the release of the identifying information; there are reasonable grounds to believe that the release of the identifying information is essential for the effective investigation of the disclosure; to prevent a serious risk to public health, public safety, the health or safety of any individual, or the environment.
- (d) The creation of a reverse onus where any conduct or threat against a whistleblower is presumed to have occurred as a result of a possible or actual disclosure that a person makes, unless the person who engaged in the conduct or made the threat can show satisfactory evidence in support of another reason for engaging in the conduct or making the threat.
- (e) The creation of an offence where a person uses force, coercion, threats, intimidation, or any other coercive means against another person with intent to prevent that person from, or influence that person to refrain from, making a disclosure.
- (f) Enhancing the powers of the South African Human Rights Commission to deal with protected disclosures.
- (g) Creation of a mechanism for the provision of legal assistance to whistleblowers.
- (h) Proactive measure by appointing a "whistle blower champion" who is responsible for ensuring and overseeing the integrity, independence and effectiveness of the firm's policies and procedures on whistleblowing; and to establish, implement, and maintain appropriate and effective internal arrangements.
- (i) The creation of a fund for whistleblowers. This will assist whistleblowers who have been dismissed, and who face severe financial hardship in meeting their basic needs and that of their dependents.
- (j) A provision that will make any clause in any agreement or contract that aims to contract out of the PDA unlawful.

- (k) Make it an offence if a person or body does not act upon a protected disclosure after a disclosure has been made.
- (l) Protection by the state to whistleblowers and their immediate family members in instances where their lives or property is endangered
- (m) Inclusion of whistleblower in the definition of witness in terms of the Witness Protection Act.