

Introduced 01/15/2017

[TO BE INTRODUCED IN THE SENATE]

A
Bill

*to provide for the right to information in transparent and effective manner,
subject only to reasonable restrictions imposed by law*

WHEREAS Government believes in transparency and the right to have access to information to ensure that the people of the Islamic Republic of Pakistan have improved access to records held by public authorities and promote the purposes of making the Government more accountable to its people, of improving participation by the people in public affairs, of reducing corruption and inefficiency in Government, of promoting sound economic growth and of promoting good governance and respect for human rights;

AND WHEREAS it is expedient to provide for a law which gives effect to the fundamental right of access to information, as guaranteed under Article 19A of the Constitution of the Islamic Republic of Pakistan and international law, whereby everyone shall have the right to have access to all information held by public bodies subject only to reasonable restrictions imposed by law, and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:-

1. Short title, application and commencement.— (1) This Act may be called the **Right of Access to Information Act, 2017**.

(2) It shall apply to all public bodies of the Federal Government.

(3) It shall come into force at once.

2. Definitions.— In this Act, unless there is anything repugnant in the subject or context,

- (i) “appeal” means any grievance lodged in writing by an applicant with the Information Commission in accordance with **section 17**;
- (ii) “applicant” means a citizen of Pakistan, as defined in law, who lodges a request or any person who is acting for or on behalf of such a person;
- (iii) “designated official” means an official of a public body designated in accordance with **section 9**;
- (iv) “Information Commission” means the Pakistan Commission on Access to Information established in accordance with **section 18**;
- (v) “information” means information based on record;
- (vi) “national security” means the matters pertaining to the integrity, security or defence of Pakistan or any part thereof;

(vii) "prescribed" means prescribed by rules or regulations made under this Act;

(viii) "principal officer" means-

- (a) in case of the Federal Government's Ministries and Divisions, the Secretary thereof; and
- (b) in all other cases, the head or chief executive of the public body by whatever designation identified;

(ix) "public body" means—

- (a) any Ministry, Division, attached department or subordinate office, including autonomous bodies of the Federal Government;
- (b) any Federal and any municipal or local authority set up or established by or under any Federal law;
- (c) the National Assembly and the Senate including their secretariats, committees and members;
- (d) any statutory corporation or other body corporate or institution set up or established or owned or controlled or funded by the Federal Government;
- (e) any court, tribunal, commission or board under the Federal law;
- (f) any incorporated or unincorporated body of the Federal Government functioning under the control or authority of another public body or wherein one or more public bodies own or have controlling interest or provide substantial funding;
- (g) any other organisation which undertakes a public function, to the extent of that function;
- (h) a non-governmental organisation which directly or indirectly receives or has received public funds, subsidy, tax exemption, piece of land or any other benefit involving public funds and any other non-governmental organisation or body registered **under any law for the time being in force**;

(x) "record" means a public record as defined in section 6.

(xi) "request" means a request for access to information and includes a request for access to a specific record;

(xii) "right of access to information" means the right of access to information accessible under this Act which is held by or under the control of any public body and includes the right of access to information, documents or record in digital or printed form, as the case may be.

3. Right to have access to information not to be denied.— (1) Subject to the provisions of this Act, no applicant shall be denied access to information or record held by a public body.

(2) This Act shall be interpreted so as to advance its purposes as set out in the preamble and to—

- (a) promote the right of access to information; and

- (b) facilitate and encourage promptly the disclosure of the information at the lowest and reasonable cost.

4. Maintenance and indexing of record.— (1) Subject to the provisions of this Act and rules made thereunder, the principal officer of each public body shall ensure that the record held by that body is properly maintained, so as to enable it to comply with its obligations under this Act.

(2) Each public body shall bring its record management practices in line with Secretariat Instructions-2004 or any other instructions of the Federal Government.

5. Publication and availability of record.— (1) The principal officer of each public body shall, within six months of the commencement of this Act, ensure that the following categories of information and record are duly published including uploading over the internet in a manner which best ensures that these are accessible subject to reasonable restrictions based on limited resources:—

- (a) description of the public body's organisation and functions, duties, powers and any services it provides to the public, including a directory of its officers and employees, indicating their duties and functions and their respective remunerations, perks and privileges;
- (b) statutes, statutory rules, regulations, bye-laws, orders and notifications, etc. applicable to the public body disclosing the date of their respective commencement or effect;
- (c) substantive or procedural rules and regulations of general application evolved or adopted by the public body, including any manuals or policies used by its employees;
- (d) relevant facts and background information relating to important policies and decisions which have been adopted, along with a statement of the policies adopted by the public body and the criteria, standards or guidelines upon which discretionary powers are exercised by it;
- (e) the conditions upon which members of the public can acquire any licence, permit, consent, approval, grant, allotment or other benefits of whatsoever nature from any public body or upon which transactions, agreements and contracts, including contracts of employment, which can be entered into with the public body, along with particulars about the recipients of any concession, permit, licence or authorisation granted by the public body;
- (f) a description of its decision making processes as defined in the Federal Government's Secretariat Instructions – 2004 and any instructions for the time being in force for public to provide input into or be consulted about decisions;
- (g) detailed budget of the public body, including proposed and actual expenditures, original or revised revenue targets, actual revenue receipts, revisions in the approved budget and the supplementary budget;
- (h) the methods whereby information in the possession or control of the public body may be obtained and the prescribed fee required along with the name, title and contact details of the designated officials;

- (i) reports including performance reports, audit reports, evaluation reports, inquiry or investigation reports and other reports that have been finalised;
- (j) such other matters which the principal officer of the public body deems fit to be published in the public interest; and
- (k) such other information as may be prescribed;
- (l) **Camera footages at public places, wherever available, which have a bearing on a crime;**
Provided that if the information or record pertains to a period earlier than the year 2008, the same shall be published within reasonable time.

6. **Declaration of public record.**— Subject to the provisions of section 7, the following record of all public bodies is hereby declared to be the public record, namely:-

- (a) policies and guidelines;
- (b) transactions involving acquisition and disposal of property and expenditure undertaken by a public body in the performance of its duties and functions;
- (c) information regarding grant of licences, allotments and other benefits, privileges, contracts and agreements made by a public body;
- (d) final orders and decisions, including decisions relating to members of public; and
- (e) any other record which may be notified by the Minister-in-charge of the Federal Government as public record for the purpose of this Act.

7. **Exclusion of certain record.**— Nothing contained in section 6 shall apply to the following record of all public bodies, namely:-

- (a) noting on the files, subject to a final decision by the public body;
- (b) minutes of meetings, subject to a final decision by the public body;
- (c) any intermediary opinion or recommendation, subject to a final decision by the public body;
- (d) record of the banking companies and financial institutions relating to the accounts of their customers;
- (e) record relating to defence forces, defence installations or connected therewith and ancillary to defence and national security excluding all commercial and welfare activities;
- (f) record declared as classified by the Minister-in-charge of the Federal Government, provided that the Minister in-charge of the Federal Government will have to record reasons as to why the harm from disclosure of information outweighs public interest, and further that information pertaining to allegation of corruption and violation of human rights shall not be excluded;
- (g) record relating to the personal privacy of any individual;
- (h) record of private documents furnished to a public body either on an express or implied condition that information contained in any such documents shall not be disclosed to a third party.

8. **Computerisation and voluntary disclosure of record.**— Each public body shall endeavour to ensure within the time prescribed in section 5 and , that all record accessible under this Act is computerised and is available online so that authorised access to such public records is facilitated.

9. **Designated official.**— (1) Each public body shall, within thirty days of the commencement of this Act, notify one or more designated officials, not below the rank of BPS-19 or equivalent:

Provided that where no designated official has been notified or he is absent or not available, principal officer of the public body shall be the designated official:

Provided further that in case of non-governmental organization, it may designate a senior officer as per its organizational structure.

10. **Functions of designated official.**— (1) Subject to the provisions of this Act and the rules made thereunder, the designated official shall be responsible for ensuring that requests are dealt with promoting full compliance by the public body of its obligations under this Act.

(2). A designated official shall, as may be prescribed, assist applicant, who is having problems due to any disability in describing the information sought in sufficient detail to enable the public body to locate that information.

11. **Requests.**— (1) Subject to the provisions of this Act and the rules made there under a citizen of the Islamic Republic of Pakistan may make a request to a public body through the designated official.

(2) A request under sub-section (1) shall be in writing and made in any manner in which the public body has the facilities to receive it, including in person, by mail, fax, online or e-mail.

(3) Any written request which identifies the information or record sought in sufficient detail to enable the public body to locate it, and which includes a complete address and contact details for delivery of the information or record, shall be treated as a request.

(4) Subject to sub-section (3), a public body may provide a prescribed form for making requests.

(5) In no case shall an applicant be required to provide reasons for his request.

12. **Where information requested for is not held.**— Where a public body does not hold information or record, the applicant shall be informed accordingly within ten working days of the receipt of the request.

13. Procedure for acceptance and refusal of requests.— (1) The designated official shall provide a written acknowledgement in response to a request.

(2) The designated official shall process the request and by notice in writing inform the applicant that —

- (a) the request has been acknowledged and the applicant is entitled to receive the information or record, subject to the payment of prescribed fee. On payment of the fee the designated official shall provide the requested record; or
- (b) the request has been rejected—
 - (i) on the basis that it does not comply with the provisions of this Act and the rules made thereunder but only after requisite assistance has been offered to the applicant as mentioned in sub-section (2) of section 10;
 - (ii) on the basis that the information is already available in a generally accessible form in which case the notice shall indicate to the applicant the place from where the information may be found;
 - (iii) on the basis that it is incorrect, because it relates to information which is substantially the same information that has already been provided to the same applicant during last six months; or
 - (iv) in whole or in part, on the basis that the information is exempt, subject to Section-7(f), in which case the notice shall specify the exact exception relied upon and specifying details regarding the right of the applicant to appeal against this decision.

(3) Where information or a record is provided in accordance with clause (a) of sub-section (2), it shall be accompanied by a certificate which may be affixed to the information or record at the foot thereof, or as appropriate, to the effect that the information is correct or, as the case may be, the copy is a true copy of the original record and such certificate shall be dated and signed by the designated official.

(4) Where the designated official refuses a request, he shall, before informing the applicant of such refusal, obtain written approval of the principal officer of the public body.

14. Time-limit for responding.— (1) Subject to the provisions of this Act, a public body shall be required to respond to a request as soon as possible and in any case within ten working days of receipt of the request.

(2) The period stipulated in sub-section (1) may be extended by maximum of further ten working days where it is necessary when the request requires a search through a large number of records or records located in different offices or consultation is required with third parties or other public bodies.

(3) Information needed to protect the life and liberty of any individual shall be provided within three working days.

