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Legal Regime Governing Information in Pakistan

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Legal Regime Governing Information in Pakistan

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Foreword

This reference material aims at bringing together laws that enable citizens in having access to information held by public bodies as well as those laws that restrict access to information. First section contains laws that facilitate access to information held by public bodies. Primarily, these are two sets of laws; firstly, laws like Freedom of Information Ordinance 2002, Khyber Pakhtunkhwa Right to Information Act 2013, Punjab Transparency and Right to Information Act 2013, Balochistan Freedom of Information Act 2005, Sindh Freedom of Information Act 2006 which are full-fledged laws aimed at facilitating citizens access to information at federal, provincial and district tiers of government, secondly, those laws that contain certain provisions pertaining to openness and transparency. In the case of the latter, relevant provisions have been inserted. The second section contains laws that hamper access to information. This section also contains provisions of Penal Code of Pakistan and of other laws that put a ceiling on access to information.

Centre for Peace and Development Initiatives, (CPDI) is implementing project titled 'Strengthening Investigative Journalism through Right to Information' in collaboration with Citizens Voice Project. This reference manual is expected to contribute to the repository of knowledge being developed under Information Clearing House (ICH) for journalists and it is hoped that journalists will benefit from this manual for investigative reporting.

Section 1

Laws Enabling Access to Information

Government of Pakistan
Ministry of Law, Justice, Human Rights and Parliamentary Affairs
(Law, Justice and Human Rights Division)

Freedom of Information Ordinance 2002

F. No. 2(1)/2002-Pub. Islamabad. the 26th October, 2002

The following Ordinance promulgated by the President is hereby published for general information: -

ORDINANCE NO. XCVI OF 2002.

AN ORDINANCE

to provide for transparency and freedom of information

WHEREAS it is expedient to provide for transparency and freedom of information to ensure that the citizens of Pakistan have improved access to public records and for the purpose to make the Federal Government more accountable to its citizens, and for matters connected therewith or incidental thereto;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action.

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the provisional Constitution Order No. 1 of 1999, read with the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance: -

1. **Short title, extent and commencement.** - (1) This Ordinance may be called the Freedom of Information Ordinance, 2002.
(2) It extends to the whole of Pakistan. (3) It shall come into force at once.
2. **Definition.** - In this Ordinance, unless there is anything repugnant in the subject or context, -
 - (a) "complainant" means
 - (i) a requester, or
 - (ii) any person acting for and on behalf of requester;
 - (b) "complaint" means any allegation in writing made by a complainant,
 - (i) where he is a requester, that access to record has been wrongfully denied to him by a public body;
 - (ii) where he is a requester, that access to and/or correction of his personal information has been wrongfully denied to him by a public body having the custody or control of the record;
 - (iii) where he is a requester that the information requested by him has been

- unduly delayed by a public body;
- (c) “designated official” means an official of a public body designated under section 10;
 - (d) “employee” , in relation to a public body, means person employed in a public body whether permanently or temporary;
 - (e) “Federal Tax Ombudsman” means Federal Tax Ombudsman appointed under section 3 of the Establishment of the Office of Federal Tax Ombudsman Ordinance, 2000 (XXXV of 2000);
 - (f) “Mohtasib” means the Wafaqi Mohtasib (Ombudsman) appointed under Article 3 of the Establishment of the office of the Wafaqi Mohtasib (Ombudsman) Order, 1983 (P.O. No. 1 of 1983);
 - (g) “prescribed” means prescribed by rules made under this Ordinance; (h) “public body” means,-
 - (i) any Ministry, Division or attached department of the Federal Government;
 - (ii) Secretariat of Majlis-e-Shoora (Parliament);
 - (iii) any office of any Board, Commission, Council, or other body established by, or under, a Federal law;
 - (iv) courts and tribunals;
 - (i) “record” means record in any form, whether printed or in writing and includes any map, diagram, photography, film, microfilm, which is used for official purpose by the public body which holds the record;

Access to information not to be denied. - (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Ordinance, no requester shall be denied access to any official record other than exemptions as provided in section 15.

- (2) This Ordinance shall be interpreted so as
 - (i) to advance the purposes of this Ordinance, and
 - (ii) to facilitate and encourage, promptly and at the lowest reasonable cost, the disclosure of information.
4. **Maintenance and indexing of records.** - Subject to provisions of this Ordinance and in accordance with the rules that may be prescribed, each public body shall ensure that all records covered under clause (i) of section 2 of this Ordinance are properly maintained.
5. **Publication and availability of records.** - The acts and subordinate legislation such as rules and regulations, notifications, by-laws, manuals, orders having the force of law in Pakistan shall be duly published and made available to a reasonable price at an adequate number of outlets so that access thereof is easier, less time-consuming and less expensive.
6. **Computerization of records.** - Each public body shall endeavour within reasonable time and subject to availability of resources that all records covered by the provisions of this Ordinance are computerized and connected through a network all over the country on different systems so that authorised access to such records is facilitated.
7. **Declaration of public records.** - Subject to the provisions of section 8, the following record of all public bodies are 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;
 - (c) information regarding grant of licenses, allotments and other benefits and privileges and 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 Federal Government as public record for the purposes of this Ordinance.

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

- (a) noting on the files;
- (b) minutes of meetings;
- (c) any intermediary opinion or recommendation;
- (d) record of the banking companies and financial institutions relating to the accounts of their customers;
- (e) record relating to defense forces, defense installations or connected therewith or ancillary to defense and national security;
- (f) record declared as classified by the Federal Government;
- (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 person; and
- (i) any other record which the Federal Government may, in public interest exclude from the purview of this Ordinance.

9. Duty to assist requesters. - A public body shall take necessary steps as may be prescribed to assist any requester under this Ordinance.

10. Designation of official. - (1) A public body shall designate and notify an officer or employee to whom requests under this Ordinance are to be made. These officials will be designated to ensure easy public access to information.

- (2) In case no such official has been designated or in the event of the absence or non-availability of the designated official, the person incharge of the public body shall be the designated official.

11. Functions of designated official. - Subject to the provisions of this Ordinance and the rules made there under and the instructions if any, of the Federal Government, the designated official shall provide the information contained in any public record or, as the case may be, a copy of any such record.

12. Applications for obtaining information, etc.- (1) Subject to sub-section (2), any citizen of Pakistan may make an application to the designated official in the form as may be prescribed and shall with his application, furnish necessary particulars, pay such fee and at such time as may be prescribed.

- (2) Nothing contained in sub-section (1) shall apply to such public record as has been published in the Official Gazette or in the form of a book offered for sale.

13. Procedure for disposal of applications. - (1) Subject to sub-section (2), on receiving an application under section 12, the designated official shall, within twenty-one days of the receipt of request, supply to the applicant the required information or, as the case may be a copy of any public record.

- (2) In case the designated official is of the opinion that -
 - (a) the application is not in the form as has been prescribed;
 - (b) the applicant has not furnished necessary particulars or has not paid such fee as has been prescribed;
 - (c) the applicant is not entitled to receive such information;

- (d) the required information or, as the case may be, the required record does not constitute a public record under section 7;
- (e) the required information or, as the case may be, the required record constitutes a record which is excluded under section 8,

he shall record his decision in writing and the applicant shall be informed about such decision within twenty-one days of the receipt of the application.

- (3) The information from, or the copy of, any public record supplied to the applicant under sub-section (1), shall contain a certificate at the foot thereof that the information is correct or, as the case may be, the copy is a true copy of such public record, and such certificate shall be dated and signed by the designated official.

14. Exempt information from disclosure. - Subject to the provisions of this Ordinance, a public body shall not be required to disclose exempt information.

15. International relations. - (1) Information may be exempt if its disclosure would be likely to cause grave and significant damage to the interests of Pakistan in the conduct of international relation.

and

- (2) In this Section, "international relations" means relation between Pakistan
 - (a) the government of any other foreign State; or
 - (b) an organization of which only States are members.

16. Disclosure harmful to law enforcement. - Information may be exempt if its disclosure is likely to

- (a) result in the commission of an offence;
- (b) harm the detection, prevention, investigation or inquiry in a particular case;
- (c) reveal the identity of a confidential source of information;
- (d) facilitate an escape from legal custody;
- (e) harm the security of any property or system, including a building, a vehicle, a computer system or a communication system.

17. Privacy and personal information. - Information is exempt if its disclosure under this Ordinance would involve the invasion of the privacy of an identifiable individual (including a deceased individual) other than the requester.

18. Economic and commercial affairs. - Information is exempt if and so long as its disclosure

- (a) would be likely to cause grave and significant damage to the economy as a result of the premature disclosure of the proposed introduction, abolition or variation of any tax, duty, interest rate, exchange rate or any other instrument of economic management;
- (b) would be likely to cause significant damage to the financial interests of the public body by giving an unreasonable advantage to any person in relation to a contract which that person is seeking to enter into with the public body for the acquisition or disposal of property or the supply of goods or services, or
- (c) by revealing information to a competitor of the public body, would be likely to cause significant damage to the lawful commercial activities of the public body.

19. Recourse to the Mohtasib and Federal Tax Ombudsman. - (1) If the applicant is not provided the information or copy of the record declared public record under section 7 within the prescribed time or the designated official refuses to give such information or, as the case may be, copy of such record, on the ground that the applicant is not entitled to

receive such information or copy of such record, the applicant may, within thirty days of the last date of the prescribed time for giving such information or, as the case may be, of such record, or the communication of the order of the designated official declining to give such information or copy of such record, file a complaint with the head of the public body and on failing to get the requested information from him within the prescribed time may file a complaint with the Mohtasib and in cases relating to Revenue Division, its subordinate departments, offices and agencies with the Federal Tax Ombudsman.

(2) The Mohtasib or the Federal Tax Ombudsman, as the case may be, may, after hearing the applicant and the designated official, direct the designated official to give the information or, as the case may be, the copy of the record, or may reject the complaint.

20. Dismissal of frivolous, vexatious and malicious complaint. - Where a complaint instituted is found to be malicious, frivolous or vexatious, the complaint may be dismissed by Mohtasib, and fine may be imposed on the complainant up to an amount not exceeding ten thousands rupees.

21. Offence. - Any person who destroys a record which at the time it was destroyed was the subject of a request, or of a complaint with the intention of preventing its disclosure under this Ordinance, commits an offence punishable with imprisonment for a term not exceeding two years, or with fine, or with both.

22. Indemnity. - No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Ordinance or any rules made there under.

23. Ordinance not to derogate other laws. - The provision of this Ordinance shall be in addition to, and not in derogation of, anything contained in any other law for the time being in force.

24. Power to remove difficulties. - If any difficulty arises in giving effect to the provisions of this Ordinance, the Federal Government may, by order in the official Gazette, make such provision not inconsistent with the provisions of this Ordinance as appear to it to be necessary or expedient for removing the difficulty.

25. Power to make rules. - (1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for -

- (a) the fee payable for obtaining information from, and copies of the public record;
- (b) the form of application for obtaining information from, and copies of, the public record; and
- (c) the form in which information from public record shall be furnished.

GENERAL PERVIZ MUSHARRAF

President

SECRETARY

Mr. Justice

(MANSOOR AHMAD)

The Freedom Of Information Rules, 2004**CABINET SECRETARIAT****(Cabinet Division)****Notification****(Islamabad, the 18th June, 2004)**

S.R.O. 514(1)/2004--- In exercise of powers conferred by section 25 of Freedom of information Ordinance 2002 (Ordinance No. XCVI of 2002), the Federal Government is pleased to make the following rules, namely:-

THE FREEDOM OF INFORMATION RULES, 2004

- 1. Short title, application and commencement** -- (1) These rules may be called the Freedom of Information Rules, 2004.
 - (2) They shall apply to public bodies.
 - (3) They should come into force at once.
- 2. Definitions**-- In these rules, unless there is any thing repugnant in the subject or context,-
 - (a) Ordinance means the Freedom of Information Ordinance, 2002 (XCVI of 2002) ; and
 - (b) all other words and expression used, but not defined herein, shall have the same meanings as assigned to them in the Ordinance.
- 3. Designated official**-- (1) The head of every public body shall designate an official for a public body under his administrative control for the purpose of providing duly attested photocopy of the public record to the applicant, in accordance with the provisions of sections 7,11,12 and 13 of the ordinance.
 - (2) The designated official shall be a senior officer of the public body not below BSP-19. In case no such official has been designated or in the event of the absence o r non availability o f designated official, the person incharge of the public body shall be the designated official, for the purposes of these rules.
- 4. Application for obtaining information**-- (1) Subject to sub-section (2) of section 12 of the Ordinance, any citizen of Pakistan may apply on the Application Form as set out in Annexure-1 for obtaining photocopy of the public record available with the respective public body along with an initial fee of fifty rupees for ten or less than ten pages to be deposited with the Cash Branch of the respective department under proper receipt or in The Freedom Of Information Rules, 2004 the State Bank of Pakistan or National Bank of Pakistan or Treasury under the following heads of account, namely:-
 - (a) major head 1300000 other receipts;
 - (b) minor head 1390000 other; and
 - (c) detailed head 1391221 fee payable for obtaining information and copies of public record.
 - (2) An amount of five rupees per page of photocopy shall be deposited in the heads of account specified in sub-rule (1) of rule 4 for every additional page (standard size) if the number of the pages of record requested exceeds ten pages per requisition.
 - (3) In case of any Board, Commission, Council or other body established by, or under, a Federal law, charges shall be deposited in their respective heads of account.
 - (4) Subject to the availability of the facility each public body shall make available the Application Form (Annexure – I) on its website.

5. Procedure for disposal of application -- The designated official of every public body shall give an intimation to the applicant in the form as set out in Annexure - II and duly attested photocopy of public record subject to the provisions of rules of 6 and 7 except such information as is exempted under sections 8, 14, 15, 16, 17 and 18 of the Ordinance, as well as, any other instructions of Government for restricting the disclosure of information by the public body concerned.

6. Procedure for filing of complaint with the head of public body-- In case the requisite information is not provided by the designated official of a public body within twenty-one days, the applicant may file a complaint with the head of that public body and the head of such public body shall dispose of the complaint under intimation to the complainant within thirty days of its receipt. In case the application is sent through mail it shall be disposed of within prescribed time limit beginning from the date of the receipt in the office concerned.

**APPLICATION FORM
FOR OBTAINING RECORD UNDER
FREEDOM OF INFORMATION ORDINANCE, 2002 (XCVI OF 2002)**

Name of Applicant _____

NIC No. _____ (attach a photo copy of the NIC)

Father 's Name. _____

Address. _____

Phone No. _____

Name of Public Body from which information is to be obtained _____

Subject matter of record requested. _____

_____ Nature of record requested _____

Purpose of acquisition of the information or record _____

DECLARATION

(a) Application Fee of Rs.50/- (Non-refundable) has been deposited with the cash branch of the department or in State Bank of Pakistan or National Bank of Pakistan or Treasury _____
_____ vide challan or receipt No. _____ dated _____
_____, an original copy of which is attached.

(b) The information obtained would not be used for any purpose other than specified above.

Signature of Applicant

ROFORMA FOR INTIMATION TO THE APPLICATION

Subject _____

Reference your application dated _____ for supply of photo copies of the record

regarding _____

Your request has been considered and accepted/rejected by the competent authority.

2. You are requested to deposit an additional amount of Rs.- ____ (Rupees _____), for additional _____ pages of photocopies (@ Rs. 5/ per page), with the Cash Branch of the department or in the State Bank of Pakistan or National Bank of Pakistan or Treasury under the heads of account mentioned below.

Major Head 1300000 Other Receipts

Minor Head 1390000 Others

Detailed Head 1391221 Fee payable for obtaining information from and copies of Public Record

3. Your request is regretted as the same is not permissible under the provisions of the Freedom of Information Ordinance 2002 for the reasons that _____

_____.

Signature of Designated officer

Date

To

Balochistan Provincial Assembly Secretariat**NOTIFICATION**

Dated Quetta.the 6th December 2005.

No. PAB/Legis:V(27)/2005. Freedom of Information Bill. 2005Bill No.4 of 200. having been passed by the provincial Assembly of Balochistan on 27th November 2005and assented to by the Governor of Balochistan. Is hereby published as an Act of Provincial Assembly.

BALUCHISTAN FREEDOM OF INFORMATION ACT, 2005

(Balochistan Act No. VI of 2005)

AN**ACT**

To provide for transparency and freedom of information.

WHEREAS it is expedient to provide for transparency and freedom of information to ensure that the citizens of Balochistan have improved access to public records and for the purpose to make the Provincial Government more accountable to its citizens, and for matter concerned therewith or incidental thereto,

It is hereby created as follows:-

1. Short title and commencement: (1) This Act may be called the Balochistan Freedom of Information Act, 2005.

(2) It extends to the whole of Balochistan

(3) It shall come into force at once

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

(a) "complainant" means

(i) request; or

(ii) any person acting for and on behalf of requester;

(b) "complainant" means any allegation in writing made by a complainant

(i) where he is a requester, that access to record has been wrongfully denied to him by a public body;

(ii) where he is a requester, that access to and or correction of his person information has been wrongfully denied to him by a public body having the custody or control of the record;

(iii) where he is a requester that the information requested by him has been unduly delayed by a public body;

(c) "designated official" means an official of a public body designated under section 10;

(d) "employees" in relation to a public body, means a person employed in a public body whether permanently or temporary;

(e) "Government" means the Government of Balochistan;

(f) "Ombudsman" means the Ombudsman appointed under section 3 of the Establishment of Officer for the Province of Balochistan Act, 1991;

(g) "prescribed" means prescribed by rules made under this Act'

(h) "public body" means

(i) Any Ministry, department or attached department of Government;

(ii) Secretariat of Provincial Assembly

(iii) Any office of any Board, Commission, Council, or other body established by, or under, a Provincial Law; and

(iv) Courts and tribunals; and

- a. "record" means record in any form, whether printed or in writing and includes any map, diagram, photography, film, microfilm, which is used for official purpose by the public body which hold the record.

3. Access to information not to be denied

(1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, no requester shall be denied access to any official record other than exemptions as provided in section 15.

- (2) This Act shall be interpreted so as
 - (i) to advance the purposes of this Act and
 - (ii) to facilitate and encourage, promptly and at the lowest reasonable cost, the disclosure of information.

4. Maintenance and indexing of records: Subject to provisions of this Act in accordance with the rules that may be prescribed, each public body shall ensure that all record covered under clause (i) of section 2 of this Act are properly maintained.

5. Publication and availability of records: The acts and sub Act legislation such as rules and regulations, notifications, bylaws, manuals, orders having the force of law in the Balochistan province shall be duly published and made available at a reasonable price at an adequate number of outlets so that access thereof is easier, less time-consuming and less expensive.

6. Computerization of Records: Each public body shall endeavor within reasonable time and subject availability of resources that all records covered by the provisions of this Act are computerized and connected through a network all over the country on different systems so that authorized access to such records is facilitated.

7. Declaration of public record: Subject to the provisions of section 8, the following records of all public bodies are 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;
- c) Information regarding grant of licenses, allotments and other benefits and privileges and 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 Government as public record for the purposes of this Act.

8. Exclusion of certain record: Nothing contained in section 7 shall apply to the following record of all public bodies, namely;

- (a) noting on the files;
- (b) minutes of meetings;
- (c) any intermediary opinion or recommendation;
- (d) record declared as classified by the Federal and Provincial Government;
- (e) record relating to the personal privacy of any individual: 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 person. and
- (g) exclude from the purview of this Act.

9. Duty to assist requesters: A public body shall take necessary steps as may be prescribed to assist any requester under this Act.

10. Designation of official: (1) A public body shall designate and notify an officer or employee to whom requests under this Act are to be made. These officials will be designated to ensure easy public access to information.

(2) In case no such official has been designated or in the event of the absence or non-availability of the designated official, the person incharge of the public body shall be the designated official.

11. Functions of designated official: Subject to the provisions of this Act and the rules made there under and the instructions if any, of Government, the designated official shall provide the information contained in any public record or, as the case may be a copy of any such record.

12. Applications for obtaining information, etc: (1) Subject to sub-section (2), any citizen of Pakistan may make an application to the designated official in the form as may be prescribed and shall with his application, furnish necessary particulars, pay such fee and at such time as may be prescribed.

(2) Nothing contained in sub-section (1) shall apply to sub public record as has been published in the official gazette or in the form of a book offered for sale.

13. Procedure for disposal of applications: (1) Subject to sub-section (2), on receiving an application under section 12, the designated official shall, within twenty-one days of the receipt, supply to the applicant the required information or, as the case may be, a copy of any public record.

Information or, as the case may be, a copy of any public record.

(2) In case the designated official is of the opinion that;

- a. the application is not in the form as has been prescribed;
- b. the applicant has not furnished necessary particulars or has not paid such fee as has been prescribed
- c. the applicant is not entitled to received such information
- d. the required information or, as the case may be, the required record does not constitute a public record under section 7;
- e. the required information or, as the case may be, the required record constitutes a record which is excluded under section 8,

he shall record his decision in writing and the applicant shall be informed about such decision within twenty-one days of the receipt of the applicant.

(3) The information form, or the copy of, any public record supplied to the applicant under the sub-section (1), shall contain a certificate at the foot thereof that the information is correct or, as the case may be, the copy is a true copy of such public record, and such certificate shall be dated and signed by the designated official.

14. Exempt information from disclosure: Subject to the provisions of this Act, a public body shall not be required to disclose exempt information.

15. Disclosure of harmful to law enforcement: Information may be exempt if its disclosure is like to-

- a. result in the commission of an offence;
- b. harm the detection, prevention, investigation or inquiry in a particular case;
- c. reveal the identify of a confidential source of information
- d. facilitate an escape from legal custody; and
- e. harm the security of any property or system, including a building a vehicle, a computer system or a communications system

16. Privacy and personal information: Information is exempt if its disclosure under this Act would involve the invasion of the privacy of an identifiable individual (including a deceased individual) other than the requester.

17. Economic and commercial affairs: Information is exempt if and so long as its disclosure-

(a) would be likely to cause grave and significant damage to the economy as a result of the premature disclosure of the proposed introduction, abolition or variation of any tax, duty, interest rate, exchange rate or any other instrument of economic management;

(b) would be likely to cause significant damage to the financial interest of the public body by giving an unreasonable advantage to any person in relation to a contract which that person is seeking to enter into with the public body for the acquisition or disposal of property or the supply of goods or services, or

(c) by revealing information to a competitor of the public body, would be likely to cause significant damage to the lawful commercial activities of the public body.

18. Recourse to the Ombudsman: (1) If the applicant is not provided the information or copy of the record declared public record under Section 7 within the prescribed time or the designated official refuses to give such information or, as the case may be, copy of such record, on the ground that the applicant is not entitled to receive such information or copy of such record, the applicant may, within thirty days of the last date of the prescribed time for giving such information or, as the case may be, of such record, or the communication of the order of the designated official declining to give such information or copy of such record, file a complaint with the head of the public body and on failing to get the requested information from him within the prescribed time may file a complaint with the Ombudsman.

(2) The Ombudsman may, after hearing the applicant and designated official, direct the designated official to give the information or, as the case may be, the copy of the record or may reject the complaint.

19. Dismissal of frivolous vexatious and malicious complaint: Where a complaint instituted is found to be malicious, frivolous or vexatious, the complaint may be dismissed by the Ombudsman, and fine may be imposed on the complainant up to an amount not exceeding ten thousand rupees.

20. Offence: An person who destroys a record which at the time it was destroyed was the subject of a request, or of a complaint with the intention of preventing its disclosure under this Act, commits an offence punishable with imprisonment for a term not exceeding two years, or with fine, or with both

21. Indemnity: No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or any rules made there under.

22. Act not to derogate other laws: The provisions of this Act shall be in addition to, and not in derogation of, anything contained in any other law for the time being in force.

23. Powers to remove difficulties: If any difficulty arises in giving effect to the provisions of this Act, Government may, by order in the official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

24. Power to make rules: (1) Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for:-

- (a) the fee payable for obtaining information from, and copies of the public record
- (b) the form of application for obtaining information from, and copies of the public record, and
- (c) the form in which information from public record shall be furnished

Mir Muhammad Anwar Lehri
Secretary

LAW DEPARTMENT**NOTIFICATION***Karachi, the 10th August, 2006*

No. S. Legis: 1(20)/2006/The following Act made by the Governor of Sindh is hereby published for general information:-

THE SINDH FREEDOM OF INFORMATION ACT, 2006**Sindh Act No. XX of 2006****AN****ACT**

To provide for transparency and freedom of information.

WHEREAS it is expedient to provide for transparency and freedom of information to ensure that the citizens of province Sindh have improved access to public records and for the purpose to make the Provincial Government more accountable to its citizens, and for matter concerned therewith or incidental thereto,

AND WHEREAS the Provincial Assembly is not in session the Governor of Sindh is satisfied the circumstances exist which matter it necessary to take immediate action;

1. Short title and commencement: This Act may be called the Sindh Freedom of Information Ordinance, 2006.

It shall come into force at once

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

- (a) "complainant" means
 - (i) a request; or
 - (ii) any person acting for and on behalf of requester;
- (b) "complainant" means any allegation in writing made by a complainant
 - (i) where he is a requester, that access to record has been wrongfully denied to him by a public body;
 - (ii) where he is a requester, that access to and or correction of his person information has been wrongfully denied to him by a public body having the custody or control of the record;
 - (iii) where he is a requester that the information requested by him has been unduly delayed by a public body;
- (c) "designated official" means an official of a public body designated under section 10;
- (d) "employees" in relation to a public body, means a person employed in a public body whether permanently or temporary;
- (e) "Government" means the Government of Sindh;
- (f) "Ombudsman" means the Ombudsman appointed under section 3 of the Establishment of Officer for the Province of Sindh Act, 1991;
- (g) "prescribed" means prescribed by rules made under this ordinance'
- (h) "public body" means
 - (i) any department or attached department of Government;
 - (ii) Secretariat of Provincial Assembly
 - (iii) Any office of any Board, Commission, Council, or other body established by, or under, a Provincial Law; and
 - (iv) Courts and tribunals; and

- (i) “record” means record in any form, whether printed or in writing and includes any map, diagram, photography, film, microfilm, which is used for official purpose by the public body which hold the record.

3. Access to information not to be denied

- (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Ordinance, no requester shall be denied access to any official record other than exemptions as provided in section 15.
- (2) This Ordinance shall be interpreted so as
 - (i) to advance the purposes of this Ordinance and
 - (ii) to facilitate and encourage, promptly and at the lowest reasonable cost, the disclosure of information.

4. Maintenance and indexing of records: Subject to provisions of this Ordinance and the rules, each public body shall ensure that all records are properly maintained.

5. Publication and availability of records: The acts and sub ordinance legislation such as rules and regulations, notifications, bylaws, manuals, orders having the force of law in the Sindh province shall be duly published and made available at a reasonable price at an adequate number of outlets so that access thereof is easier, less time-consuming and less expensive.

6. Computerization of Records: Each public body shall endeavor within reasonable time and subject availability of resources that all records covered by the provisions of this Ordinance are computerized and connected through a network all over the country on different systems so that authorized access to such records is facilitated.

7. Declaration of public record: Subject to the provisions of section 8, the following records of all public bodies are 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;
- c) Information regarding grant of licenses, allotments and other benefits and privileges and 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 Government as public record for the purposes of this Ordinance.

8. Exclusion of certain record: Nothing contained in section 7 shall apply to the following record of all public bodies, namely;

- (b) Noting on the files
- (c) Minutes of meetings
- (d) Any intermediary opinion or recommendation
- (e) Record of the banking companies and financial institutions relating to the accounts of their customers;
- (f) Record relating to defense forces, defense installation or connected therewith or ancillary to defense and nation security.
- (g) Record declared as classified by Government
- (h) Record relating to the personal privacy of any individual;
- (i) 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 person, and

- (j) Any other record which Government may, in public interest, exclude from the purview of this Ordinance.

9. Duty to assist requesters: A public body shall take necessary steps as may be prescribed to assist any requester under this Ordinance.

10. Designation of official: (1) A public body shall designate and notify an officer or employee to whom requests under this Ordinance are to be made. These officials will be designated to ensure easy public access to information.

(2) In case no such official has been designated or in the event of the absence or non-availability of the designated official, the person in charge of the public body shall be the designated official.

11. Functions of designated official: Subject to the provisions of this Act and the rules made there under and the instructions if any, of Government, the designated official shall provide the information contained in any public record or, as the case may be a copy of any such record.

12. Applications for obtaining information, etc: (1) Subject to sub-section (2), any citizen of Pakistan may make an application to the designated official in the form as may be prescribed and shall with his application, furnish necessary particulars, pay such fee and at such time as may be prescribed.

(2) Nothing contained in sub-section (1) shall apply to sub public record as has been published in the official gazette or in the form of a book offered for sale.

13. Procedure for disposal of applications: (1) Subject to sub-section (2), on receiving an application under section 12, the designated official shall, within twenty-one days of the receipt, supply to the applicant the required information or, as the case may be, a copy of any public record.

Information or, as the case may be, a copy of any public record.

- (2) In case the designated official is of the opinion that;
- the application is not in the form as has been prescribed;
 - the applicant has not furnished necessary particulars or has not paid such fee as has been prescribed
 - the applicant is not entitled to receive such information
 - the required information or, as the case may be, the required record does not constitute a public record under section 7;
 - the required information or, as the case may be, the required record constitutes a record which is excluded under section 8, he shall record his decision in writing and the applicant shall be informed about such decision within twenty-one days of the receipt of the applicant.

(3) The information form, or the copy of, any public record supplied to the applicant under the sub-section (1), shall contain a certificate at the foot thereof that the information is correct or, as the case may be, the copy is a true copy of such public record, and such certificate shall be dated and signed by the designated official.

14. Exempt information from disclosure: Subject to the provisions of this Act, a public body shall not be required to disclose exempt information.

15. International relations: (1) Information may be exempt if its disclosure would be likely to cause grave and significant damage to the interests of Pakistan in the conduct of international relation.

(2) In this section, "international relations" means relations between Pakistan and

- (a) the government of any other foreign State; or
- (b) an organization of which only States are members

16. Disclosure of harmful to law enforcement: Information may be exempt if its disclosure is like to-

- a. result in the commission of an offence;
- b. harm the detection, prevention, investigation or inquiry in a particular case;
- c. reveal the identity of a confidential source of information
- d. facilitate an escape from legal custody; and
- e. harm the security of any property or system, including a building a vehicle, a computer system or a communications system

17. Privacy and personal information: Information is exempt if its disclosure under this Ordinance would involve the invasion of the privacy of an identifiable individual (including a deceased individual) other than the requester.

18. Economic and commercial affairs: Information is exempt if and so long as its disclosure-

- (a) would be likely to cause grave and significant damage to the economy as a result of the premature disclosure of the proposed introduction, abolition of variation of any tax, duty, interest rate, exchange rate or any other instrument of economic management;
- (b) would be likely to cause significant damage to the financial interest of the public body by giving an unreasonable advantage to any person in relation to a contract which that person is seeking to enter into with the public body for the acquisition or disposal of property or the supply of goods or services, or
- (c) by revealing information to a competitor of the public body, would be likely to cause significant damage to the lawful commercial activities of the public body.

19. Recourse to the Ombudsman: (1) If the applicant is not provided the information or copy of the record declared public record under Section 7 within the prescribed time or the designated official refuses to give such information or, as the case may be, copy of such record, on the ground that the applicant is not entitled to receive such information or copy of such record, the applicant may, within thirty days of the last date of the prescribed time for giving such information or, as the case may be, of such record, or the communication of the order of the designated official declining to give such information or copy of such record, file a complaint with the head of the public body and on failing to get the requested information from him within the prescribed time may file a complaint with the Ombudsman.

(2) The Ombudsman may, after hearing the applicant and designated official, direct the designated official to give the information or, as the case may be, the copy of the record or may reject the complaint.

20. Dismissal of frivolous vexatious and malicious complaint: Where a complaint instituted is found to be malicious, frivolous or vexatious, the complaint may be dismissed by the Ombudsman, and fine may be imposed on the complainant up to an amount not exceeding ten thousand rupees.

21. Offence: An person who destroys a record which at the time it was destroyed was the subject of a request, or of a complaint with the intention of preventing its disclosure under this Act, commits an offence punishable with imprisonment for a term not exceeding two years, or with fine, or with both

22. Indemnity: No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or any rules made there under.

23. Ordinance not to derogate other laws: The provisions of this Act shall be in addition to, and not in derogation of, anything contained in any other law for the time being in force.

24. Powers to remove difficulties: If any difficulty arises in giving effect to the provisions of this Act, Government may, by order in the official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

25. Power to make rules: (1) Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for:-

- (a) the fee payable for obtaining information from, and copies of the public record
- (b) the form of application for obtaining information from, and copies of the public record, and
- (c) the form in which information from public record shall be furnished

**DR. ISHRAT-UL-EBAD KHAN
GOVERNOR OF SINDH**

Karachi

Dated the 10th August, 2006

EXTRAORDINARY
GOVERNMENT

REGISTERED NO. P.III

G A Z E T T E E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 5TH NOVEMBER, 2013.

PROVINCIAL ASSEMBLY SECRETARIAT KHYBER PAKHTUNKHWA.

NOTIFICATION

Dated Peshawar the 5th November, 2013.

No. PA/Khyber Pakhtunkhwa/Bills/2013/10466.---The Khyber Pakhtunkhwa Right to Information Bill, 2013 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 31st October, 2013 and assented to by the Governor of the Khyber Pakhtunkhwa on 4th November, 2013 is hereby published as an Act of the Provincial Legislature on the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA RIGHT TO INFORMATION ACT, 2013

(KHYBER PAKHTUNKHWA ACT NO. XXVII OF 2013)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the gazette of the Khyber Pakhtunkhwa (Extraordinary), dated the 5th November, 2013)

AN

ACT

to provide for ensuring transparency and access to information in the Province of the Khyber Pakhtunkhwa.

WHEREAS Article 19A of the Constitution of the Islamic Republic of Pakistan provides that every citizen shall have the right to access to information in all matters of public importance, subject to regulation and reasonable restrictions imposed by law;

AND WHEREAS transparency of information is vital to the functioning of democracy and also to improve governance, reduce corruption, and to hold Government, autonomous and statutory organizations and other organizations and institutions run on Government or foreign funding, more accountable to its citizens and for matters connected therewith and incidental thereto;

AND WHEREAS it is essential that citizens shall have right to information to participate meaningfully in a democratic process and further to improve their involvement and contribution in public affairs;

It is hereby enacted as follows:-

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Right to Information Act, 2013.

(2) It extends to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

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

(a) “complaint” means any allegation in writing made by or on behalf of a requester that his request for information has not been dealt with by a public body in accordance with the rules and procedures set out in this Act, including where he has been wrongfully denied access to all or part of that record;

- (b) “designated officer” means an officer of a public body designated under section 6 of this Act;
- (c) “employee or official” in relation to a public body means a person employed in a public body whether permanently or temporarily and includes consultants;
- (d) “Government” means the Government of the Khyber Pakhtunkhwa;
- (e) “information” means material which communicates meaning and which is held in recorded form;
- (f) “Information Commission” means the Khyber Pakhtunkhwa Information Commission established under section 24 of this Act;
- (g) “prescribed” means prescribed by rules made under this Act;
- (h) “Province” means the Province of the Khyber Pakhtunkhwa;
- (i) “Public body” means:
 - (i) any department or attached department of the Government;
 - (ii) Secretariats of Chief Minister and Governor of the Khyber Pakhtunkhwa;
 - (iii) Secretariat of the Provincial Assembly, Khyber Pakhtunkhwa along with the Members of the Assembly and the Assembly itself;
 - (iv) any Office, Board, Commission, Council or any other Body established by, or under, any law;
 - (v) subordinate judiciary i.e. Courts of District and Sessions Judges, Courts of Additional District and Sessions Judges, Courts of Senior Civil Judges, Courts of Civil Judges and Courts of Magistrates;
 - (vi) Tribunals;
 - (vii) anybody which is owned, controlled or substantially funded by one of the above, including enterprises owned by the Province; and
 - (viii) any other body which undertakes a public functions;
- (j) “record” means information which is recorded in any form;
- (k) “request for information” shall include a request for information and a request for a specific record;
- (l) “requester” means any citizen, who has made a request for information under this Act; and
- (m) “third party” means a person other than the person making a request for information or a record.

3. Right to information.---(1) Every citizen shall subject to the provisions of this Act and any rules made under it, have the right to access any information or record held by a public body.

(2) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, no requester shall be denied access to any public information or record.

(3) This Act shall be interpreted so as,-

- (a) to advance the purposes of this Act; and
- (b) to facilitate and encourage, promptly and at the lowest reasonable cost, the disclosure of information.

4. Maintenance and indexing of records.---Subject to the provisions of this Act and in accordance with the rules as may be prescribed, each public body shall ensure that all of the records which it holds are properly maintained, including so as to enable it to comply with its

obligations under this Act, and in accordance with any relevant rules or standards established by the Information Commission.

5. Publication and availability of records.---(1) The following categories of information shall be duly published by public bodies in an up-to-date fashion and in a manner which best ensures that they are accessible to those for whom they may be relevant, including over the Internet, subject to reasonable restrictions based on limited resources:

- (a) Acts and subordinate legislation such as rules, regulations, notifications, bye-laws, manuals and orders having the force of law in the Province, including being made available at a reasonable price at an adequate number of outlets to ensure reasonable access by the public;
 - (b) information about the public body, including its organization, functions, duties, powers and any services it provides to the public;
 - (c) a directory of its officers and employees, including a description of their powers and functions and their respective remunerations, perks and privileges;
 - (d) norms and criteria set by the public body for the discharge of its functions, including any rules, manuals or policies used by its employees to this end;
 - (e) a description of its decision making processes and any opportunities for the public to provide input into or be consulted about decisions;
 - (f) relevant facts and background information relating to important policies and decisions which are being formulated or have been made and which affect the public;
 - (g) a detailed budget of the public body, including proposed and actual expenditures;
 - (h) details about any subsidy or benefit programmes operated by the public body, including details about the amount or benefits provided and the beneficiaries;
 - (i) particulars of the recipients of concessions, permits, licenses or authorizations granted by the public body;
 - (j) the categories of information held by the public body;
 - (k) a description of the manner in which requests for information may be made to the public body, including the name, title and contact details of all designated officers; and
 - (l) such other information as may be prescribed.
- (2) Public body shall also publish an annual report on what they have done to implement their obligations under this Act, which shall include detailed information about the requests for information which they have received, and how they have processed these requests.
- (3) The annual report under sub-section (2) shall be formally forwarded to Speaker Provincial Assembly of Khyber Pakhtunkhwa and to the Information Commission, who shall take such action on the report as they may deem appropriate.

6. Designation of official.---(1) On commencement of this Act, a public body shall within a period of one hundred and twenty (120) days, designate and notify an officer to act as designated officer for the purposes of this Act, with whom request for information under this Act may be lodged.

- (2) In case no such official has been designated or in the event of the absence or non availability of the designated officer, the person in charge of the public body shall be the designated officer.

- (3) The designated officer shall be responsible for ensuring that requests for information are dealt in accordance with this Act and generally for promoting full compliance by the public body with its obligations under this Act.
- 7. Request for information.**---(1) Subject to the provisions of this Act, every citizen may lodge a request for information with a public body through the designated officer.
- (2) A request for information shall be made in writing and lodged in any manner in which the public body has the facilities to receive it, including in persons, by mail, by fax or by e-mail.
- (3) Any written request for information which identifies the information or record sought in sufficient detail to enable the public body to locate it, and which includes an address for delivery of the information or record, shall be treated as a request for information.
- (4) Subject to sub-section (3), a public body may provide an optional form for making requests for information, with a view to assisting requesters to make request.
- (5) In no case shall a requester be required to provide reasons for his request.
- (6) Where a request for information is received by a public body, the requester shall be provided with a receipt acknowledging the request, including the date and name of the official responsible for processing it.
- 8. Assistance to requesters.**---(1) A designated officer shall take all reasonable steps to assist any requester who needs such assistance.
- (2) In particular, a designated officer shall assist any requester who is having problems describing the information sought in sufficient detail to enable the public body to locate that information, or who needs help due to disability.
- (3) Where a requester is unable to provide a written request, a designated officer shall reduce the request into writing, and provide the requester with a signed, dated copy of it.
- 9. Where information is not held.**---(1) Where a public body does not hold information or records which are responsive to a request, and it is aware of another public body which does hold the information, it shall forward the request to that public body, and it shall inform the requester of this.
- (2) Where a public body does not hold information or records which are responsive to a request, and it is not aware of any other public body which does, it shall return the request to the requester, informing him of this.
- 10. Procedure for disposal of requests.**---(1) A designated officer shall provide a written notice in response to a request for information.
- (2) The notice shall indicate that:
- (a) the request has been accepted and the requester is entitled to receive the information or record, subject to the payment of any applicable fee; or
 - (b) the request has been rejected on the basis that it does not comply with the rules relating to such requests, but only after assistance has been offered to the requester in accordance with section 8; or
 - (c) the request has been rejected on the basis that the information is already available in published form, including in the official Gazette or in another generally accessible form, such as a book, in which case the notice shall direct the requester to the place where the information may be found; or

- (d) the request has been rejected on the basis that it is vexatious, including because it relates to information which is substantially the same as information that has already been provided to the same requester; or
 - (e) the request has been rejected, in whole or in part, on the basis that the information is exempt, in which case the notice shall specify the exact exception relied upon and include details regarding the right of the requester 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, as appropriate, to the effect that the information is correct or, as the case may be, the copy is a true copy of such public record, and such certificate shall be dated and signed by the designated officer.
- 11. Time line for responding.**---(1) Subject to the provisions of this Act, a public body shall be required to respond to a request for information in accordance with section 7 as soon as possible and in any case within ten working days of the receipt of request.
 - (2) The period stipulated in sub-section (1), may be extended by a maximum of a further ten working days where this is necessary because the request requires a search through a large number of records or records located in different offices, or consultation with third parties or other public bodies.
 - (3) Information needed to protect the life or liberty of any individual will be provided within two working days.
- 12. Form for providing information.**---Where an applicant has indicated a preferred means for accessing information, such as a physical copy (attested), an electronic copy or an opportunity to inspect certain records, the public body shall provide access in that form unless to do so would unreasonably interfere with its operations or harm the document.
- 13. Fees for requests.**---(1) It shall be free to lodge requests for information.
 - (2) Fees may be charged for the actual costs of reproducing information and sending it to the requester, in accordance with any schedule of fees which may be adopted by the Information Commission.
 - (3) No fee shall be charged for the first twenty pages of information provided, or where the requester is below the poverty line.
- 14. Exempt information.**---A public body shall not be required to disclose information which falls within the scope of the exceptions provided for in sections 15 to 21 of this Act, provided that:
 - (a) exceptions in other laws (secrecy provisions) may not extend the scope of the exceptions in this Act, although they may elaborate on an exception that is provided for in this Act;
 - (b) the fact that information has been classified is irrelevant to the question of whether or not it falls within the scope of the exceptions provided for in this Act, which must always be accessed directly, at the time of a request, based on clear and objective considerations;
 - (c) where only part of a record or the information falls within the scope of the exceptions provided for in this Act, that part shall be severed and the rest of the record or information shall be provided to the requester;

- (d) even where information falls within the scope of an exception provided for in this Act, the information shall still be provided to the requester where, on balance, the overall public interest favours disclosure of the information;
- (e) for the purposes of clause (d), there shall be a strong presumption in favour of the disclosure of information that exposes corruption, criminal wrongdoing, other serious breaches of the law, human rights abuse, or serious harm to public safety or the environment; and
- (f) the exceptions set out in sections 15 to 18 of this Act, shall cease to apply after a period of twenty years, provided that this may be extended, in exceptional cases, for up to a maximum of another fifteen years, with the approval of the Information Commission.

15. International relations and security.---A public body may refuse a request for information the disclosure of which would be likely to cause grave and significant harm to international relations or national security.

16. Disclosure harmful to law enforcement.---A public body may refuse a request for information the disclosure of which would be likely to:

- (a) result in the commission of an offence;
- (b) harm detection, prevention, investigation, inquiry or prosecution in relation to an offence, or the apprehension of an offender;
- (c) reveal the identity of a confidential source of information in relation to an investigation;
- (d) facilitate an escape from legal custody; or
- (e) harm the security of any property or system, including a building, a vehicle, a computer system or a communication system.

17. Public economic affairs.---A public body may refuse a request for information the disclosure of which would be likely to:

- (a) cause grave and significant damage to the economy as a result of the premature disclosure of the proposed introduction, abolition or variation of any tax, duty, interest rate, exchange rate or any other instrument of economic management; or
- (b) cause significant damage to the legitimate financial interests of the public body, including by giving an unreasonable advantage to any person in relation to a contract which that person is seeking to enter into with the public body or by revealing information to a competitor of the public body.

18. Policy making.---A public body may refuse a request for information the disclosure of which would be likely to cause serious prejudice to the deliberative process in a public body by inhibiting the free and frank provision of advice or exchange of views, or cause serious prejudice to the success of a policy through premature disclosure of that policy.

19. Privacy.---(1) A public body may refuse a request for information the disclosure of which would encroach on the privacy of an identifiable third party individual, other than the requester, including an individual who has been deceased for less than twenty years.

(2) The exception in sub-section (1) shall not apply where:

- (a) the third party has effectively consented to the disclosure of the information; or
- (b) the person making the request is the guardian of the third party, or the next of kin or the executor of the will of a deceased third party; or

- (c) the third party is or was an official of a public body and the information relates to his function as a public official.
- 20. Legal privilege.**---A public body may refuse a request for information which is privileged from production in legal proceedings, unless the person entitled to the privilege has waived it.
- 21. Commercial and confidential information.**---A public body may refuse a request for information if the information:
- (a) was obtained from a third party and to communicate it would constitute an actionable breach of confidence; and
 - (b) was obtained in confidence from a third party and it contains a trade secret or to communicate it would be likely to seriously prejudice the commercial or financial interests of that third party.
- 22. Third parties.**---(1) Where a request for information relates to information or a record provided on a confidential basis by a third party, the public body shall endeavor to contact that third party with a view to obtaining either his consent to disclosure of the information or record or his objections to disclosure.
- (2) Where a third party objects to disclosure, his objections shall be taken into account, but the decision as to whether or not the information falls within the scope of the exceptions in this Act shall be assessed by the public body on the basis of objective considerations.
- 23. Complaints.**---(1) Anyone who believes that his request has not been dealt in accordance with the provisions of this Act has the right to lodge a complaint with the Information Commission to this effect.
- (2) Complaints under sub-section (1) shall be free of charge.
 - (3) The Information Commission shall decide any complaint within a period of sixty (60) days.
 - (4) In an appeal, the public body shall bear the burden of proof of showing that it acted in accordance with the provisions of this Act.
- 24. Information Commission.**---(1) On the commencement of this Act, Government shall within a period of one hundred and twenty (120) days, establish a Information Commission to be known as the Khyber Pakhtunkhwa Information Commission.
- (2) The Information Commission shall be an independent statutory body, which shall enjoy operational and administrative autonomy from any other person or entity, including Government and any of its agencies, except as specifically provided for by law.
 - (3) The Information Commission shall be headed by the Chief Information Commissioner, who shall be a retired Senior Government Servant not below the rank of BPS-20 and shall be appointed by Government.
 - (4) The Information Commission shall comprise of three other Members to be known as Commissioners, who shall be appointed in the following manner:
 - (a) One advocate of High Court or Supreme Court, who is qualified to be a Judge of High Court ;
 - (b) A person from civil society having experience of not less than fifteen years in the field of mass communication, academic or right to information.
 - (5) The Chief Information Commissioner and the Commissioners shall hold office for a term of three years from the date on which they assume office and shall not be eligible for re - appointment.

- (6) Notwithstanding anything contained in sub-section (5), the Chief Information Commissioner and Commissioners shall not hold office after they have attained the age of sixty-five (65) years.
- (7) A Commissioner may not hold any other public office, or be connected with any political party or be running any business or pursuing any profession at the time of or during their appointment to the Information Commission.
- (8) A Commissioner may be removed by a positive vote of not less than two of the other Commissioners on grounds of failure to attend three consecutive meetings of the Information Commission without cause, inability to perform the duties of a Commissioner, falling foul of the conditions for being a Commissioner as set out in sub-section (6), or conduct which is materially inconsistent with the status of being a Commissioner, provided that a Commissioner who has been removed pursuant to this sub-section shall have the right to appeal that removal before the courts.

25. Functions of the Information Commission.---(1) The Information Commission shall have a primary responsibility to receive and decide on complaints.

- (2) The Information Commission shall, in addition to its complaints function, conduct the following activities:
 - (a) set rules and minimum standards regarding the manner in which public bodies are required to manage their records, in accordance with section 4 of this Act;
 - (b) designate further categories of information which may be subject to proactive disclosure, in accordance with sub-section (1) of section 5 of this Act;
 - (c) adopt a schedule of the fees that public bodies may charge for providing information to requesters, in accordance with sub-section (2) of section 13 of this Act;
 - (d) approve or reject extensions to the maximum period that information may be kept confidential, in accordance with clause (f) of section 14 of this Act;
 - (e) compile a user-friendly handbook, in Urdu and English, describing in easily comprehensible form the rights established by, and how to make a request for information under, this Act;
 - (f) refer to the appropriate authorities cases which reasonably disclose evidence of criminal offences under this Act;
 - (g) compile a comprehensive annual report both describing its own activities, including an overview of its audited accounts, and providing an overview of the activities undertaken by all public bodies to implement this Act, taking into account the information provided by individual public bodies pursuant to sub-section (2) of section 5 of this Act; and
 - (h) have an accredited accountant conduct an audit of its accounts on an annual basis, and provide a copy of its audited accounts to the Provincial Assembly and the Department of Finance.
- (3) The Information Commission shall have the power to:
 - (a) monitor and report on the compliance by public bodies with their obligations under this Act;
 - (b) make recommendations to Government for reform both of a general nature and in relation to specific public bodies;
 - (c) make formal comments on any legislative or other legal proposals which affect the right to information;

- (d) co-operate with or undertake training activities for public officials on the right to information and the effective implementation of this Act; and
 - (e) publicize the requirements of this Act and the rights of individuals under it.
- 26. Powers of the Information Commission.**---(1) The Information Commission shall have all powers, direct or incidental, as are necessary to undertake its functions as provided for in this Act, including full legal personality, and the power to acquire, hold and dispose of property.
- (2) The Information Commission shall also have the power to conduct inquiries, in relation to either a complaint or other matters connected with the proper implementation of this Act, and when conducting such an inquiry, the Information Commission shall have the powers of a Civil Court under Code of Civil Procedure (CPC), 1908 in respect of the following matters:
- (a) summoning and enforcing the attendance of witnesses and compelling them to give oral or written evidence under oath;
 - (b) requiring public bodies and to produce documents or things; (c) inspect the premises of public bodies; and
 - (d) examining and inspecting information.
- (3) When deciding a complaint, the Information Commission shall have the following powers:
- (a) to order a public body to disclose information to a requester or to take such other reasonable measures as it may deem necessary to compensate a requesters for any failure to respect the provisions of this Act;
 - (b) to impose a daily fine of up to Rs. 250 per day, up to a maximum of Rs. 25,000, on any official who has acted willfully to obstruct any activity which is required to be undertaken by this Act, including with a view to preventing or delaying the disclosure of information to a requester; and
 - (c) to require a public body to take such general measures as may be required to address systematic failures to respect the provisions of this Act, including by appointing a designated officer, by conducting training for its employees, by improving its record management, by publishing information on a proactive basis and/or by preparing and publishing an annual report.
- (4) A decision of the Information Commission under sub-section (3) shall, if it has not been appealed against within 30 days, be registered with the court and any failure to respect the decision shall be dealt with in the same way as any contempt of court.
- 27. Funding for the Information Commission.**---(1) Government shall make such a budgetary allocation to the Information Commission as it may require to discharge its responsibilities effectively, including by establishing a secretariat and hiring the requisite staff to enable it to conduct its business properly, and shall provide the funds indicated through a reasonable schedule of payments throughout the year.
- (2) For purposes of implementing sub-section (1), the Information Commission shall present a budget proposal to Government.
- (3) The Chief information Commissioner and Commissioners shall be entitled to such remuneration and allowances as the Government may determine.
- 28. Offence.**---(1) It is a criminal offence willfully to:
- (a) obstruct access to any record with a view to preventing the exercise of a right provided for in this Act;
 - (b) obstruct the performance by a public body of a duty under this Act;

- (c) interfere with the work of the Information Commission; or
 - (d) destroy a record without lawful authority.
 - (e) Use the information obtained for malafiedly purposes with ulterior motives with facial, fabulous design.
- (2) Anyone who commits an offence under sub-section (1), shall be liable to a fine not exceeding rupees fifty thousand (50000) or imprisonment for a period not exceeding two years.
- 29. Indemnity.**---No one may be subject to any legal, administrative or Employment-related sanction for anything which is done in good faith or intended to be done in pursuance of this Act or any rules made there under.
- 30. Whistleblowers.**---(1) No one may be subject to any legal, administrative or employment- related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or which would disclose a serious threat to health, safety or the environment, as long as they acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment.
- (2) For purposes of sub-section (1), wrongdoing includes the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, or serious maladministration regarding a public body.
- 31. Power to remove difficulties.**---If any difficulty arises in giving effect to the provisions of this Act, Government may, by order in the official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.
- 32. Power to make rules.**---Government in consultation with the Information Commission may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.
- 33. Repeal.**---The Khyber Pakhtunkhwa Right to Information Ordinance, 2013 (Khyber Pakhtunkhwa Ordinance No. VII of 2013) is hereby repealed.

**BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA**

**(AMANULLAH)
SECRETARY
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA**

THE PUNJAB TRANSPARENCY AND RIGHT TO INFORMATION ACT 2013

(XXV OF 2013)

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TEXT
THE PUNJAB TRANSPARENCY AND RIGHT TO INFORMATION ACT 2013
(XXV OF 2013)

[16th December, 2013]

An
Act

to provide for transparency and freedom of information in the Punjab.

Preamble.— Whereas it is expedient to provide for transparency and freedom of information to ensure that citizens have improved access to public information; to make the Government more accountable to citizens; to enforce the fundamental right of access to information in all matters of public importance; and, to provide for ancillary matters;

It is enacted as follows:-

1. Short title, extent and commencement.— (1) This Act may be cited as the Punjab Transparency and Right to Information Act 2013. (2) It extends to the whole of the Punjab.

(3) It shall come into force at once.

2. Definitions.— In this Act—

(a) “applicant” means a citizen of Pakistan or a legal person registered or incorporated in Pakistan, seeking information under this Act and includes a person authorized on behalf of the legal person;

(b) “Commission” means Punjab Information Commission established under this Act;

(c) “Commissioner” means an Information Commissioner and includes the Chief Information Commissioner;

(d) “complaint” means a complaint made, in writing, to the Commission by an applicant on one or more of the following grounds:-

- (i) wrongful denial of access to information;
- (ii) non provision of information within the stipulated time;
- (iii) refusal to receive and process the request from an applicant;
- (iv) furnishing false, misleading or incomplete information;
- (v) charging fee or cost for provision of information in excess of the requisite fee;
- (vi) deliberate destruction of information to avoid its disclosure;

(vii) failure of a public body to implement the provisions regarding proactive disclosure; or

- (viii) violation of any other provision of the Act by a public body;
- (e) “Government” means Government of the Punjab;
- (f) “information” means any information held by a public body and includes any memo, book, design, map, contract, representation, pamphlet, brochure, order, notification, document, plans, letter, report, accounts statement, project proposal, photograph, audio, video, drawing, film, any instrument prepared through electronic process, machine-readable documents and any other documentary material regardless of its physical form or characteristics;
- (g) “prescribed” means prescribed by the rules or regulations made under the Act;
- (h) “public body” means—
 - (f) a department, attached department, autonomous or semiautonomous body of the Government, a company of the Government or a special institution;
 - (ii) a local government constituted under the Punjab Local Government Act 2013 (XVIII of 2013) or any other law for the time being in force;
 - (iii) Secretariat of Governor of the Punjab;
 - (iv) any court, tribunal, office, Board, Commission, Council, or other body substantially financed by the Government;
 - (v) Provincial Assembly of the Punjab;
 - (vi) statutory body established under a provincial law; and
 - (vi) a non-government organization substantially financed by the Government or a local government;
- (i) “public information officer” means a public information officer designated under section 7 of the Act; and
- (j) “right to information” means the right to obtain information accessible under the Act and includes the right to—
 - (i) inspect any work or document;
 - (ii) take notes, extracts or certified copy of a document;
 - (iii) take certified sample of any material; and
 - (iv) obtain copy of information in electronic form.

3. Access to information.— Subject to the provisions of this Act, an applicant may, in the prescribed manner, exercise the right to information.

4. Proactive disclosure.— Subject to the provisions of this Act, a public body shall proactively disclose—

- (a) particulars of the public body, its functions and duties;
- (b) powers and functions of its officers and employees;
- (c) norms and criteria set by the public body for the discharge of its functions;
- (d) Acts, Ordinances, rules, regulations, notifications, circulars and other legal instruments being enforced, issued or used by the public body in the discharge of its functions;
- (e) a statement of categories of information being held by the public body;

- (f) a description of its decision-making processes and any opportunities for the public to provide input into or be consulted about decisions;
- (g) a directory of its officers and employees with their respective remuneration, perks and privileges;
- (h) budget of the public body including details of all proposed and actual expenditures;
- (i) amount of subsidy and details of beneficiaries if the public body provides any subsidy;
- (j) particulars of the recipients of concessions, permits or authorizations granted by the public body;
- (k) facilities available with the public body for obtaining information held by it;
- (l) name, designation and other particulars of the public information officer of the public body; and
- (m) any other information that the Government may notify in the official Gazette.

5. Punjab Information Commission.— (1) The Government shall establish a Commission, to be called 'Punjab Information Commission'.

(2) The Commission shall consist of not more than three Information Commissioners to be appointed from amongst the following:-

- (a) a person who has been or is qualified to be a Judge of the High Court;
 - (b) a person who is or has been in the service of Pakistan in basic scale 21 or equivalent; and
 - (c) a person from civil society having a degree based on sixteen years of education from a recognized institution and experience of not less than fifteen years in the field of mass communication, academic or right to information.
- (3) The Government shall, on such terms and conditions as may be prescribed and until so prescribed as are determined by the Government, appoint the Commissioners.
- (4) The Government shall nominate one of the Commissioners as Chief Information Commissioner who shall be the chief executive of the Commission.
- (5) No person shall be appointed as Commissioner if he is more than sixty-five years of age on the date of appointment.
- (6) A Commissioner shall hold office for a non-renewable term of three years.
- (7) A Commissioner shall not hold any other public office or any other office of profit or be connected with any political party and shall not engage himself in any business or profession during the period he holds office of the Commissioner.
- (8) Subject to subsections (9), (10) and (11), a Commissioner shall be liable to removal on grounds of misconduct or physical or mental incapacity.
- (9) Before removing a Commissioner, the Government shall communicate the charges to the Commissioner and afford him reasonable opportunity to explain his position.
- (10) If the Government is not satisfied with the defense offered, it may refer the case to Provincial Assembly of the Punjab for an open enquiry by a Special Committee to be constituted by the Provincial Assembly.
- (11) If the Committee finds the Commissioner guilty of any of the charges mentioned in subsection (8), the Government shall remove the Commissioner.

- (12) If Provincial Assembly of the Punjab is dissolved and the situation mentioned in subsection (8) has arisen, the Speaker of the Provincial Assembly shall constitute a special committee and such special committee may exercise the powers of special committee of the Provincial Assembly until the election of the new Provincial Assembly.
- 6. Functions of the Commission.**— (1) The Commission may—
- (a) conduct an inquiry, on its own accord or on a complaint, and may direct a public body to disclose information to an applicant or in a proactive manner;
 - (b) determine the public interest in terms of section 13;
 - (c) resolve any inconsistencies in the application of the provisions of this Act or the rules or regulations.
- (2) The Commission shall decide a complaint within thirty days of its receipt or, for good reasons to be recorded in writing, within sixty days.
- (3) The Commission may exercise the powers of a civil court to—
- (a) summon and enforce attendance of persons, compel them to give oral or written evidence on oath and to produce documents or information;
 - (b) examine and inspect information;
 - (c) receive evidence on affidavits;
 - (d) requisition information from any office; and
 - (e) issue summons for witnesses or documents.
- (4) While inquiring into a complaint, the Commission or any person authorized by the Commission, may examine any information on spot.
- (5) The Commission shall facilitate the application of the provisions of this Act and may—
- (a) issue directives to public bodies for preservation, management, publication, publicity and access to information;
 - (b) prescribe the procedure for accessing information from a public body;
 - (c) advise and provide support to the Government to make necessary laws and procedures for implementation of the right to information;
 - (d) provide technical and other support to the public bodies for effective enforcement of right to information;
 - (e) conduct training of the public information officers;
 - (f) undertake mass awareness campaign to create awareness about the Act, rules and regulations;
 - (g) establish an information web-portal;
 - (h) compile a user handbook in Urdu and English, containing such information in easily comprehensible form and manner, as many reasonably be required by an applicant; and
 - (i) compile guidelines for use by the public information officers.
- (6) The Commission shall prepare an annual report on the implementation of the provisions of this Act during a financial year and submit it to the Government by 31 August and the Government shall lay the report before Provincial Assembly of the Punjab.
- (7) The annual report of the Commission shall, in particular, contain the following

information:-

- (a) status of right to information law, rules, regulations and procedures;
- (b) progress on implementation of the freedom of information law, including district and department-wise summaries of information requests showing current status of each information request;
- (c) hurdles being faced in the implementation of freedom of information law; and
- (d) budget, expenses and other organizational matters.

7. Designation of public information officers.— (1) A public body shall, within sixty days of the commencement of this Act, designate and notify as many officers as public information officers in all administrative units or offices under it, as may be necessary.

- (2) Subject to the provisions of this Act, a public information officer shall provide information to an applicant, and shall perform such other functions as may be prescribed to achieve the purpose of this Act.
- (3) The public information officer may seek necessary assistance of any other officer of the public body.
- (4) Any officer whose assistance has been sought under subsection (3) shall render all assistance to the public information officer seeking his assistance and for purposes of any contravention of the provisions of this Act, such other officer shall be deemed as public information officer.

8. Maintenance and indexing of information.— (1) Subject to provisions of this Act and the rules or regulations, a public body shall maintain information relating to the body in an easily accessible form.

- (2) A public body shall, within the time prescribed by the Commission for any special or general categories of information, computerize or maintain in electronic form the information to enable—
 - (a) easy retrieval of information; and
 - (b) easy and authorized electronic access of information by an applicant.

9. Annual report of public bodies.— A public body shall publish in electronic form or otherwise an annual report of its activities under this Act during the previous financial year by 31 August each year in such manner as may be prescribed and make the report available for public inspection free of charge and for purchase at a reasonable cost.

10. Application procedure.— (1) An applicant may make an application to a public information officer on an information request form or on plain paper and the public information officer shall acknowledge receipt of the application.

- (2) A public body shall make easily available to the public the information request form both in printed and electronic form.
- (3) An applicant shall not be required to provide reasons for request for information and shall only be required to provide an adequate description of the information and the details necessary to provide the requisite information.
- (4) Where an applicant is having difficulty making a request, including because he cannot describe the information in sufficient detail or because he is disabled or illiterate, the concerned public information officer shall provide reasonable assistance to the applicant.
- (5) Where an applicant has indicated a preferred form of access, including a physical copy, an electronic copy or an opportunity to inspect documents, the

public body shall provide access in that form unless doing so is likely to interfere with its operations or harm the document and in that case the information shall be provided in such form as may serve the purpose.

- (6) The public body shall not charge any fee for making a request other than cost of reproducing or sending the information in accordance with a centrally set schedule of costs stipulated by the Commission.
- (7) The public information officer shall respond to an application as soon as possible and in any case within fourteen working days, provided that this may be extended by a maximum of a further fourteen working days where this is necessary, including because the request requires a search through a large number of records or consultation with a third party or any other public body, but the public information officer shall provide the information relating to life or liberty of a person within two working days of the receipt of the application.
- (8) Where the public information officer decides not to provide the information, he shall intimate to the applicant the reasons for such decision along with a statement that the applicant may file an internal review or a complaint against the refusal under this Act.
- (9) The information from, or the copy of, any public record supplied to the applicant under subsection (1) shall contain a certificate at the foot thereof that the information is correct or the copy is a true copy of such public record, and such certificate shall be dated, signed and stamped by the public information officer.

11. Transfer of application.— (1) Where an officer of a public body other than the concerned public information officer receives an application for access to information, such officer shall immediately transfer the application to the concerned public information officer under intimation to the applicant and the public information officer shall process the application as if he had received it under section 10.

- (2) If the information or part of the information requested in an application is not available with the public body or the office of the public body, the public information officer shall, within seven days and under intimation to the applicant, transfer the application to the public information officer to whom the application should have been made for provision of the information or part of the information.
- (3) If the public information officer does not know the public body or the office where the requested information or part of the information may be available, he shall inform the applicant that the requested information or part of the information is not available with the public body.
- (4) If an application is transferred to another public information officer under subsection (2), the other public information officer shall process the application as if the other public information officer received the application under section 10.

12. Internal review.— (1) If an applicant does not file a complaint with the Commission, he may request the head of the public body for internal review of any decision of the public information officer in relation to what the applicant regards as involving—

- (a) a failure by the public information officer to comply with any provision of this Act including failure to communicate decision within the specified

- time; or
 - (b) unreasonable behaviour by the public information officer in the exercise of any discretion under the Act; or
 - (c) provision of incomplete, misleading or false information under the Act; or
 - (d) any other matter relating to requesting or obtaining access to information.
- (2) An applicant shall, within sixty days from the date of communication of the decision of the public information officer or failure of the public information officer to provide information within the stipulated time, submit a request, in writing, under subsection (1) and specify remedy which the applicant seeks against the decision of the public information officer.
- (3) The officer before whom an application for internal review is filed under this section may exercise any of the powers of the public information officer under this Act and shall, within fourteen days of the receipt of the application—
- (a) confirm, modify or reverse the decision of the public information officer;
 - (b) notify the decision of internal review to the applicant including reasons for the decision; and
 - (c) order departmental action against the public information officer if found negligent in performance of duties under this Act.

13. Exceptions.— (1) A public information officer may refuse an application for access to information where disclosure of the information shall or is likely to cause harm to—

- (a) national defense or security, public order or international relations of Pakistan;
 - (b) a legitimate privacy interest, unless the person concerned has consented to disclosure of the information;
 - (c) the protection of legally privileged information or of the rules relating to breach of confidence;
 - (d) the legitimate commercial interests of a public body or a third party, including information subject to third party intellectual property rights;
 - (e) the life, health or safety of any person;
 - (f) the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice;
 - (g) the ability of the Government to manage the economy; or
 - (h) the effective formulation of or success of a policy either by its premature disclosure or by restraining the free and frank provision of advice within the Government.
- (2) Notwithstanding anything contained in subsection (1), if the Commission determines that the public interest in such disclosure outweighs the harm that shall or is likely to be caused by such disclosure, it may direct the public information officer to provide the information.
- (3) Where a part of a document is covered by an exception in subsection (1), any information in the document which is not covered by an exception shall be disclosed if it is reasonably severable from the rest of the document.
- (4) Where the information is refused, the public information officer shall, within the time-limit specified under section 10, inform the applicant specifying—

- (a) the reasons on account of which and the provision of this Act under which the requested information is refused;
 - (b) procedure for internal review or complaint against the decision; and
 - (c) name and designation of the person who may provide full or limited access to the exempted information.
- (5) Notwithstanding anything contained in this section, any information mentioned in subsection (1) may be disclosed by a public information officer if the information is more than fifty years old but the Commission may, in an appropriate case on application of a public body or otherwise, extend this time period of fifty years to a further twenty years.

14. Allocation of funds.— The Government shall allocate adequate funds to the Commission to enable it to establish a secretariat, hire the requisite staff to conduct its business properly, and promote access to information among the public, public servants and civil society.

15. Penalty on public information officer.— Where a public information officer has, without any reasonable cause, refused to receive an application, has not furnished information within time limits, or *malafidely* denied the request or knowingly gave incorrect, incomplete or misleading information, the Commission may, after providing sufficient opportunity of defense to the public information officer, direct the public information officer to pay fine not exceeding two days' salary for each day of delay or to pay fine which may extend to fifty thousand rupees.

16. Offence.— In addition to any other action under any other law, any person who destroys a record which at the time it was destroyed was the subject of an application for access to information, internal review or complaint, or otherwise obstructs access to information which is the subject of an application, internal review or complaint, with the intention of preventing its disclosure under this Act, commits an offence punishable with imprisonment for a term which may extend to two years or with fine which shall not be less than ten thousand rupees or with both.

17. Cognizance of offence under this Act.— A court shall not take cognizance of the offence punishable under section 16 of this Act except on a report in writing of the facts constituting such offence made with the previous sanction of the Commission or an officer authorized by the Commission.

18. Bar of suits etc.— A court shall not entertain a suit, application or other proceeding in respect of any decision made under this Act and the decision shall not be called in question otherwise than by way of an internal review or a complaint under the Act.

19. Power to make rules.— (1) The Government, in consultation with the Commission and by notification in the official Gazette, may make rules for carrying out the purposes of this Act.

- (2) The rules shall also provide elaboration of the following provisions of this Act:-
- (a) procedure for proper maintenance, indexing and storage of information, including details of information to be published in an electronic form;
 - (b) procedure for filing of request for information and a schedule of the costs for providing the information;
 - (c) handling and internal review mechanisms;
 - (d) information that shall be included in the annual report of each public

- body;
- (e) procedure for publishing, displaying and obtaining the annual report; (f) designation of public information officers, and if required, any other official delegates, and their duties and responsibilities;
- (g) procedure for removal of a Commissioner, including definition of misconduct;
- (h) finances, budgeting and staffing related to the Commission and its secretariat;
- (i) responsibilities of Commissioners, mechanism for taking decisions, quorum requirements and procedures in case of non-availability of one or more Commissioners;
- (j) provisions regarding imposition of penalties or fines; and
- (k) any fees that may be charged by a public body in carrying out the provisions of this Act.

20. Power to frame regulations.— Subject to this Act and the rules, the Commission may, by notification, frame regulations to give effect to the provisions of the Act and the rules.

21. Power to remove difficulties.— If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order in the official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

22. Interpretation.— This Act, the rules and regulations shall be interpreted so as to advance the purposes of this Act and to facilitate and encourage, promptly and at the lowest reasonable cost, the disclosure of information and effective implementation of right to information.

23. Indemnity.— No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or any rules or regulations made under the Act.

24. Act to take precedence over other laws.— (1) The provisions of this Act shall take precedence over the provisions of any other law.

(2) An exception mentioned in section 13 shall take precedence and any exception or limitation in any other law on right to information may not be construed to extend the scope of the exception in this Act, although such provision in other law may elaborate on the exception mentioned in section 13.

25. Repeal.— The Punjab Transparency and Right to Information Ordinance (IV of 2013) is hereby repealed.

ACT VI OF 1993**NATIONAL ARCHIVES ACT, 1993**

An Act to provide for the custody and preservation of public records of Pakistan and archival materials of historical and national significance to Pakistan

[Gazette of Pakistan, Extraordinary, Part I, 3rd April, 1993]

8. Access to public records.--(1) Public records referred to in sub-clause (i) of clause (e) of section 2 shall be made available to the public for the purpose of reference or research after twenty years of their creation:

Provided that public records having a bearing on national security, including the records of the intelligence agencies, shall be made available within twenty years of their creation unless on a reference from the Secretary of the Administrative Division a Committee headed by Cabinet Secretary and including such members as may be appointed by the Federal Government may decide to exempt any record on grounds of national security from the provisions of this subsection.

(2) Access to other public records specified in sub-clause (ii) of clause (c) of section 2 shall be allowed in accordance with the conditions and deposit of fee prescribed in rules made under this Act.

ISLAMABAD, THE 16th DECEMBER, 1997

Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997

ACT NO. XL OF 1997

An Act to provide for the regulation of generation, transmission and distribution of electric power

- 43. Inspection by public.** — (1) The Authority shall maintain public files that shall be kept open in convenient form for public inspection and examination during reasonable business hours.
- (2) Subject to procedures and standards for confidentiality, the Authority's public files shall include all relevant documents to be maintained and indexed as the Authority deems fit.
- (3) The Provincial Governments shall keep open in convenient form for public inspection and examination during reasonable business hours all complaints, responses and decisions relating to the Provincial inspection offices.

Oil and Gas Regulatory Authority Ordinance 2002**PART I****Acts, Ordinances, President's Order and Regulations****GOVERNMENT OF PAKISTAN****MINISTRY OF LAW, JUSTICE, HUMAN RIGHTS AND PARLIAMENTARY AFFAIRS****(Law, Justice and Human Rights Division)**

Islamabad, the 28th March, 2002

19. Inspection by publics.—(1) Subject to section 38, the Authority shall maintain public files that shall be kept open in convenient form for public inspection and examination during reasonable business hours, on payment of such reasonable fees as the Authority may prescribe.

(2) Subject to procedures and standards for confidentiality prescribed by the Authority, the Authority's files shall include all relevant documents to be maintained and indexed as the Authority deems fit.

20. Submission of yearly report, returns, etc.- (1) The Authority shall submit to the Federal Government, and publish, as soon as possible after the end of every financial year but before the last day of December the next following year-

(a) a report on the conduct of its affairs for that financial year, including anticipated developments for the following financial year; and

(b) a report on the state of the petroleum industry in Pakistan, in so far as it relates to regulated activities, identifying the ownership, operation, management, control, efficiency and cost of regulated activities, amount of production, transportation, transmission and distribution capacity, present and future domestic demand for petroleum and other matters related to regulated activities.

(2) The Federal Government may direct the Authority to supply any return, statement, estimate, statistics or other information regarding any matter under the Authority, and the Authority shall expeditiously comply with such direction.

PEMRA ORDINANCE

“The PEMRA Ordinance 2002 as amended up-to-date by the PEMRA(Amendment) ACT, 2007 is published on this website for information purpose only and does not constitute a legal opinion or give rise to any liability on part of PEMRA. The readers are requested to consult the Official Gazette for professional use of the PEMRA Ordinance”

PAKISTAN ELECTRONIC MEDIA REGULATORY AUTHORITY ORDINANCE 2002**AS AMENDED BY
THE****PAKISTAN ELECTRONIC MEDIA REGULATORY AUTHORITY (AMENDMENT) ACT, 2007 (ACT
NO.II OF 2007)**

19. Licence to broadcast or operate.- (1) The Authority shall have exclusive right to issue licences for the establishment and operation of all broadcast media and distribution services, provided that this exclusive right shall be used by the Authority in conformity with the principles of fairness and equity applied to all potential applicants for licences whose eligibility shall be based on prescribed criteria notified in advance and that this shall be done through an open, transparent bidding process:

Section 2:

Laws hampering access to information

Following are some of the sections from different laws, The Official Secrets Act, Pakistan Penal Code and Criminal Procedure Code as identified by Zafar Ullah Khan, Centre for Civic Education as hampering access to information.

The Official Secrets Act, 1923

ACT NO XIX OF 1923

2nd April, 1923**An Act** to consolidate and amend the Law in Pakistan relating to official secrets.**Restriction against photographs, sketches, etc., of prohibited and notified areas**

(1) No person shall, except under the authority of a written permit granted by or on behalf of the appropriate Government, make any photograph, sketch, plan, model, note or representation of any kind of any prohibited place or of any other place or area, notified by the appropriate Government as a place or area with regard to which such restriction appears ;

to that Government to be expedient in the interests of the security of Pakistan, or of any part of or object in any such place or area.

(2) The appropriate Government may, by general or special order make provision for securing that no photograph, sketch, plan, model, note or representation of any kind made under the authority of a permit granted in pursuance of sub section (1) shall be published unless and until the same has been submitted to and approved by such authority or person as may be specified in the order, and may retain or destroy or otherwise dispose of anything so submitted.

(3) If any person contravenes any of the provisions of this section, he shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

5. Wrongful communication, etc. of information

(1) If any person having in his possession or control any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under Government, or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under Government, or as a person who holds or has held a contract made on behalf of Government, or as a person who is or has been employed under a person who holds or has held such an office or contract —

(a) willfully communicates the code or pass word, sketch, plan, model, article, note, document or information to any person other than a person to whom he is authorised to communicate it,

or a Court of Justice or a person to whom it is, in the interests of the State, his duty to communicate it ; or

(b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the State ; or

(c) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or willfully fails to

comply with all directions issued by lawful authority with regard to the return or disposal thereof ; or

(d) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code or pass word or information ; he shall be guilty of an offence under this section.

(2) If any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code, pass word, sketch, plan, model, article, note, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this section.

Pakistan Penal Code**(XLV OF 1860)****[6th October, 1860]****292. Sale, etc., of obscene books, etc.: Whoever:-**

(a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation,, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or

(b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or shall be punished with imprisonment of either description for a term which may extend to Six months, or with fine which may extend to one thousand rupees, or with both.

(c) takes part in or receives profits from, any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or

(d) advertises or makes known by any means whatsoever that any person he engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or

(e) offers or attempts to do any act which is an offence under this section, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine or with both.

505. Statements conducing to public mischief: (1) Whoever makes, publishes, or circulates any statement, rumor or report--

(a) with intent to cause or incite, or which is likely to cause or incite, any officer, soldier, sailor, or airman in the Army, Navy or Air Force of Pakistan to mutiny, offence or otherwise disregard or fail in his duty as such ;

THE CODE OF CRIMINAL PROCEDURE, 1898 (Pakistan)

As amended by Act II of 1997

99-A. Power to declare certain publications forfeited and to issue search-warrants for the same. (1)

where:-

(a) any newspaper, or book as defined in the ²²[West Pakistan Press and Publication Ordinance, 1963, or any other law relating to press and publications for the time being in force] or (b) any document. Wherever printed, appears to the Provincial Government to contain any treasonable or seditious matter or any matter which is prejudicial to national integration or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of the citizens of Pakistan or which is deliberately and maliciously intended to outrage the religious feelings of such class by insulting the religion or the religious beliefs of that class, [or any matter of the nature referred to in clause (ii) of subsection (i) of S. 24 of the W.P. Press and Publication Ordinance, 1963] that is to say, any matter the publication of which is punishable under section 123A or section 124A or section 154A or section 295A [or S. 298A or S. 298B or S. 298C] of the Pakistan Penal Code, the Provincial Government may, by notification in the Official Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to Government and thereupon any police-officer may seize the same wherever found in Pakistan and any Magistrate may by warrant authorize any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be reasonably suspected to be.

(2) In sub-section (1) 'document' includes also any painting, drawing or photograph, or other visible representation.

Centre for Peace and Development Initiatives, (CPDI) is an independent, non-partisan and a not-for-profit civil society organization working on issues of peace and development in Pakistan. It is registered Under Section 42 of the Companies Ordinance, 1984 (XLVII of 1984). It was established in September 2003 by a group of concerned citizens who realized that there was a need to approach the issue of peace and development in a an integrated manner. CPDI is a first initiative of its kind in Pakistan. It seeks to inform and influence public policies and civil society initiatives through research-based advocacy and capacity building in order to promote citizenship, build peace and achieve inclusive and sustainable development. Areas of special sectoral focus include promotion of peace and tolerance, rule of law, transparency and access to information, budget watch, legislative watch and development.



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