

**Model Balochistan Right to
Information Bill 2015**

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BILL

To provide for the right to information in a speedy, cost-effective and easy manner in the province of Balochistan, subject only to reasonable restrictions established by law

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 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 Balochistan Right to Information Act, 2015.

(2) It extends to the whole of the Province of the 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) “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 Balochistan 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;

- (vi) failure of a public body to implement the provisions regarding proactive disclosure; or
- (vii) violation of any other provision of the Act by a public body;
- (e) “Government” means Government of the Balochistan;
- (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—
 - (i) 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 Balochistan Local Government Act 2010 or any other law for the time being in force;
 - (iii) secretariats of Chief Minister and Governor of the Balochistan;
 - (iv) any court, tribunal, office, Board, Commission, Council, or other body substantially financed by the Government;
 - (v) secretariat of the Provincial Assembly, Balochistan along with the Members of the Assembly and the Assembly itself;
 - (viii) statutory body established under a provincial law; and
 - (ix) 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 6 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 not to be denied.- (1) Notwithstanding anything contained in any other law for the time being in force, and subject only to this Act, no applicant shall be denied access to any information or record held by a public body.

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

- (a) promote the right to know; and
- (b) 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 programs 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 Chief Secretary of Balochistan 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, date 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 fourteen working days of the receipt of request.

- (2) The period stipulated in sub-section (1), may be extended by a maximum of a further fourteen 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.

12 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.

14 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) right of 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.

15 Information Commission.---(1) On the commencement of this Act, Government shall within a period of one hundred and twenty (120) days, establish an Information Commission to be known as the Balochistan 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 2 other Members to be known as Information 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 four years from the date on which they assume office and shall not be eligible for re - appointment.
- (6) No one over the age of sixty-two years may be appointed as Commissioner.
- (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.

16 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 an appeal or on its own initiative in relation to 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 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 records or other things;
 - (c) inspecting 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 an applicant or to take such other reasonable measures as it may deem necessary to remedy or compensate an applicant for any failure to respect the provisions of this Act;
 - (b) to impose a daily fine of up to the equivalent of one day of salary per day, for a maximum of one hundred days, on any official who has acted wilfully 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 an applicant; 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 thirty 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.

17 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.

18 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 sub-section (5) 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.

19 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.

20 Power to make regulations.- The Information Commission may make regulations, not inconsistent with the provisions of the rules made under section 19, regarding its internal procedures and, without limiting the generality of the foregoing, make regulations regarding—

- (a) record management standards;
- (b) categories of information subject to proactive disclosure;
- (c) fee that may be charged for requests; and
- (d) for the processing of appeals.

21 Promotional measures.- All public bodies shall be required to-

- (a) publish and keep updated a list of all of the documents that that they hold;
- (b) ensure that their staff receive adequate training on implementation of this Act;
- (c) publish annual reports on what they have done to implement this Act, including detailed information about the requests for information which they have received, and how they have processed these requests; and
- (d) the annual report under clause (c) shall be made public and formally forwarded to the Chief Secretary and to the Information Commission, who shall take such action on the report as they may deem appropriate.

22 Offences.- (1) Anyone who acts wilfully to obstruct the implementation of this Act, including by—

- (a) obstructing access to any information or record with a view to preventing the exercise of a right provided for in this Act;
 - (b) obstructing the performance by a public body of a duty under this Act;
 - (c) interfering with the work of the Information Commission; or
 - (d) destroying a record without lawful authority;
- shall be liable to a fine not exceeding twenty-five thousand rupees.

- (2) The commission of serious and repeated wilful acts to obstruct the right to information under this Act shall be a criminal offence punishable with imprisonment for a term not exceeding two years or with a fine of up to one hundred thousand rupees or with both.
 - (3) Where a public body systematically fails to respect the right to information under this Act, the Information Commission may require it to take such general measures as may be required to address those systematic failures, including by appointing a designated official, 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.
- 23 Indemnity.-** No suit, prosecution or legal proceedings shall lie against the principal officer, designated official or any other person of the public body in respect of anything which, in good faith, is done or purported to have been done under this Act and the rules made thereunder.
- 24 Act to override other laws.-** The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.
- 25 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.
- 26 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.
- 27 Repeal.---** Freedom of Information Act 2005 (Balochistan Act No. VI of 2005) is hereby repealed.