

Revised draft Bill-III

[prepared after meeting of sub-committee of the Senate's Standing Committee on Information and Broadcasting held on 9.7.2013 and consequently including proposals dated 16.7.2013 of Ministry of Information and Broadcasting]

A

BILL

to provide for the right to have access to information in all matters of public importance subject to reasonable restriction

WHEREAS it is expedient to provide for a law whereby every citizen of the Islamic Republic of Pakistan shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restriction as enunciated in Article 19A of the Constitution of the Islamic Republic of Pakistan and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:-

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

(2) It shall, subject to sub-section (3), extend to the whole of Pakistan.

(3) It shall apply to the Federal Government's Ministries, Divisions, attached departments, subordinate offices, organizations, autonomous bodies, corporations and other institutions **and non-governmental organizations (NGOs) registered by the Federal Government or un-registered.**

(4) It shall come into force at once.

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

(i) "applicant" means a requester or any person acting for and on behalf of a requester in person or his counsel;

(ii) "complaint" means any grievance registered in writing by an applicant to the effect that-

(a) access to the requisite documents, information or record has been wrongfully denied to a requester by a public body having custody or control of the record; or

(b) the information sought by a requester has been unduly delayed by a public body; or

(iii) "designated official" means an official of a public body designated to provide information sought by a requester;

(iv) "information" means public documents and records required by the requester under this Act, but does not include the records exempted under section 8 or disclosure of which may infringe upon the right of privacy of any individual;

(v) "Mohtasib" means the Wafaqi Mohtasib (Ombudsman), appointed under the Establishment of the Office of Wafaqi Mohtasib Order, 1983 (P.O. No. 1 of 1983) or, as the case may be, the Federal Tax Ombudsman, appointed under the Federal Tax Ombudsman Ordinance, 2000 (XXXV of 2000) under whose jurisdiction the Federal public body may fall;

(vi) "prescribed" means prescribed by rules made under this Act;

- (vii) “national security” means and includes the matters pertaining to the integrity, security or defence of Pakistan or any part thereof;
- (viii) “principal officer” means-
 - (a) in case of the Federal Government’s Ministries and Divisions, the Secretary thereof; and
 - (b) in all other cases, the head or chief executive of the public body by whatever designation identified;
- (ix) “public body” means-
 - (a) any Ministry, Division, attached department or subordinate office of the Federal Government;
 - (b) any Federal and any municipal or local authority set up or established by or under any law;
 - (c) any statutory corporation or other body corporate or institution set up or established or owned or controlled or funded by the Federal Government;
 - (d) any incorporated or unincorporated body or legal entity functioning under the control or authority of the Federal Government or wherein one or more of such Governments owns or has controlling interests or which is funded by any such government;
 - (e) any non-governmental organizations (NGO) registered by the Federal Government or un-registered; and**
 - (f) any court, tribunal, commission or board; and
- (x) “public record” means-
 - (a) record specified in section 7, in any form, whether printed or in writing or in any form such as map, diagram, photograph, film, video, microfilm;
 - (b) transactions involving acquisition and disposal of property and expenditure undertaken by a public body;
 - (c) information regarding grant of licences, approvals, consents, allotments and other benefits and privileges and contracts made by a public body;
 - (d) any information required to be furnished by a person to a public body under any law or furnished for the purpose of receiving any benefit or advantage;
 - (e) any information of whatsoever nature in possession of a public body in which members of the public may have a legitimate interest, but does not include-
 - i. all internal working documents of a public body, including proposals for Cabinet’s decisions, proposals relating to management of the national economy and other affairs of the Government, till such time that a final decision thereon has been taken and notified by the public body;
 - ii. matters relating to law enforcement and public safety, including-
 - a. investigative reports undertaken by agencies for the prevention and detection of crime and for the collection and assessment of taxes, including any information obtained or received in the course of any investigation; and

- b. any information about the existence or non-existence or identity of a confidential source of information in relation to the enforcement of any law; and
- iii. any information the disclosure whereof would endanger the life or physical safety of any person or prejudice the fair trial of a person or the impartial adjudication of a particular case before any court or tribunal;
- (iv) any information relating to scientific or technical research the disclosure whereof would, or could reasonably, be expected to expose the concerned organization or project to disadvantage;
- (v) any information the disclosure whereof would violate any intellectual property rights; and
- (vi) any information regarding defence planning, deployment of forces, defence installations and matters that can legitimately be related to national security.

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 this Act, no requester shall be denied access to any public record other than exempted under this Act.

- (2) This Act shall be interpreted so as to advance its purposes, including 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 provisions of this Act and the rules as may be prescribed, principal officer of each public body shall ensure that all records covered under clause (x) of section 2 are properly maintained.

5. Publication and availability of records.- (1) The Acts and subordinate legislation such as rules, regulations, bye-laws, notifications, orders, manuals, etc. having the force of law in Pakistan as well as reports of legislative and municipal proceedings and boards and commissions shall be duly published and made available at a reasonable price at an adequate number of outlets so that access thereto is easier, less time-consuming and less expensive.

(2) The principal officer of each public body shall, within six months of the commencement of this Act, cause to be published in the official Gazette or special publications and shall immediately make available for inspection and copying, during office hours at each of its offices and branches, the following information, namely:-

- (a) description of the public body's organization and functions indicating as far as possible the duties and functions of various officers of the public body empowered to take decisions;
- (b) statutes, statutory rules, regulations, bye-laws, orders, notifications applicable to the public body disclosing the date of their respective commencement or effect;
- (c) substantive or procedural rules and regulations, etc. of general application evolved or adopted by the public body;
- (d) statement of policies adopted by the public body and the criteria, standards or guidelines upon which discretionary powers are exercised by it;
- (e) the conditions upon which members of the public can acquire any licences, permits, consents, approvals, grants, allotments or other benefits of whatsoever

nature from any public body or upon which transactions and contracts, including contracts of employment, can be entered into with the public body;

- (f) the methods whereby specific information in possession or control of the public body may be obtained and the basis of the fee required therefor; and
- (g) such other matters which the principal officer of the public body deems fit to be published in the public interest:

Provided that no information otherwise already published in the official Gazette shall be required to be so published under this sub-section.

(3) Any amendment, alteration or modification relating to matters described in sub-section (1) shall also be published and made available for inspection and copying in the like manner and no person shall be adversely affected by any amendment, modification or alteration of any matter other than a statute.

6. Computerization and voluntary disclosure of records.- (1) Each public body shall Endeavour within reasonable time and subject to availability of resources that all public records covered under this Act are computerized and connected through a network all over the country on different systems so that authorized access to such public records is facilitated.

(2) Subject to the provisions of section 8, each public body shall put in place a mechanism for maximum voluntary disclosure of all information and record, especially-

- (a) Acts, rules, regulations, bye-laws, notifications, office orders, circulars, application forms, etc;**
- (b) names, designations, functions and job description of the employees and consultants, advisers, etc. as well as names of designated officials; and**
- (c) perks and privileges of all persons appointed in special grades, etc.**

7. Declaration of public records.- (1) Subject to the provisions of section 8, all record of public bodies specified under this Act is hereby declared to be the public record.

(2) Notwithstanding anything contained in any law, for the time being in force, all documents shall become public record after twenty years of their commencement.

8. Exclusion of certain record.- (1) All exclusion and classification shall be accompanied by a record of reasons.

(2) Nothing contained in this Act shall apply to the following record of public bodies, namely:-

- (a) record of the banking companies and financial institutions relating to accounts of their customers;
- (b) record relating to deployment of defence forces, defence installations or connected or ancillary to national security;
- (c) record relating to meetings of the Cabinet, Council of Common Interests and National Economic Council and their committees having a bearing on national security;
- (d) record declared as classified by the Federal Government;
- (e) record relating to personal privacy of any individual; and

- (f) 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.

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

10. Designation of official.- (1) Each public body shall notify a designated official, **not below the rank of BPS-19 or equivalent**, to whom requests under this Act are to be made and who shall ensure easy public access to information:

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

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

12. Applications for obtaining information, etc.- 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 or placed on website for consumption of general public.

13. Procedure for disposal of applications and review.- (1) Subject to sub-section (2), on receiving an application under section 12, the designated official shall, not later than twenty-one days of receipt of the request, supply to the applicant the required information or, as the case may be, a copy of the requisite public record.

(2) In case the designated official, on authority of the principal officer, is of the opinion that-

- (a) the applicant has not furnished necessary particulars or has not paid the prescribed fee; or
- (b) the required information or, as the case may be, the required record does not constitute a public record; or
- (c) 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 **with reasons** in writing and the applicant shall be informed about such decision within twenty-one days of receipt of the application.

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

(4) Where a designated official, within twenty-one days of receipt of the request, does not supply or refuses to supply to the applicant the required information or, as the case may be, a copy of the requisite public record, the applicant may, within a period of not exceeding thirty days, make a review application to principal officer of the public body:

Provided that where the principal officer, in his capacity as designated official under proviso to section 10, does not supply or refuses to supply to the applicant the required information or, as the case may be, a copy of the requisite public record, the review application may be made to the next higher authority.

14. Information exempt from disclosure.- Subject to provisions of this Act, a public body shall not be required to disclose information exempted.

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

(2) In this section, “international relations” means relation between Pakistan and-

- (a) 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 commission of an offence;
- (b) harm detection, prevention, investigation or inquiry in a particular case;
- (c) reveal identity of a confidential source of information;
- (d) facilitate an escape from legal custody; or
- (e) harm 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 Act would involve invasion of 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 is likely to cause-

- (a) grave and significant damage to economy as a result of premature disclosure of a proposed introduction, abolition or variation of any tax, duty, interest rate, exchange rate or any other instrument of economic management;
- (b) significant damage to 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 acquisition or disposal of property of supply of goods or services; or
- (c) significant damage to lawful commercial activities of the public body.

19. Recourse to Wafaqi Mohtasib and Federal Tax Ombudsman.-(1) Where, an applicant is aggrieved by decision of the principal officer or, as the case may be, the next higher authority in review under sub-section (4) of section 13, he 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) Where a complaint is filed under sub-section (1), provisions of the Establishment of the Office of Wafaqi Mohtasib Order, 1983 (P.O. No. 1 of 1983) or, as the case may be, the Federal Tax Ombudsman Ordinance, 2000 (XXXV of 2000) shall accordingly apply.

20. Dismissal of frivolous, vexatious and malicious complaint,- Where a complaint instituted is found to be malicious, frivolous, 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, after providing him the opportunity of being heard.

21. Offences.- (1) An act of destroying 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, shall be an offence punishable with imprisonment for a term not exceeding two years or with fine or with both.

(2) The designated official who, without reasonable excuse, fails or refuses to provide inspection or disclose records under sections 9,10,11,12 and 13 shall be liable to a fine not exceeding twenty-five thousand rupees.

22. 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.

23. 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.

24. Repeal.- The Freedom of Information Ordinance, 2002 (XCVI of 2002) is hereby repealed.

25. Power to remove difficulties.- If any difficulty arises in giving effect to any of the provisions of this Act, the Federal Government may make such order not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be made after expiry of one year from commencement of this Act.

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

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

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