

A

BILL

to provide for the right to information in a rapid and low-cost manner, subject only to reasonable restrictions established by law

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

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

It is hereby enacted as follows:-

1. **Short title, application and commencement.**- (1) This Act may be called the Right to Information Act, 2014.

(2) It shall apply to public bodies as defined in clause (ix) of section 2 of this Act.

(3) Except for this section which shall come into force at once, the remaining provisions of this Act shall come into force on such date or dates as the Federal Government may, by notification in the official Gazette, specify in this behalf and different dates may be specified for bringing into force of different provisions of this Act.

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

(i) “applicant” means any natural or legal person who lodges a request, or any person who is acting for or on behalf of such a person;

(ii) “Commission” or “Information Commission” means the Pakistan Information Commission established in accordance with section 29;

(iii) “complaint” means any grievance lodged in writing by an applicant with the principal officer of a public body in accordance with section 28;

(iv) “designated official” means an official of a public body designated in accordance with section 7;

(v) “information” means material held in any record, regardless of who produced it or its physical form or characteristics.

- (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, including autonomous bodies, of the Federal Government;
 - (b) any federal and any municipal or local authority set up or established by or under any federal law;
 - (c) the National Assembly and Senate including their secretariats, committees and members and the head of government;
 - (d) any statutory corporation or other body corporate or institution set up or established or owned or controlled or funded by the Federal Government;
 - (e) any court, tribunal, commission or board;
 - (f) any incorporated or unincorporated body or entity functioning under the control or authority of another public body or wherein one or more public bodies owns or has controlling interests or provides substantial funding;
 - (g) any other organisation which undertakes a public function, to the extent of that function;
- (x) “record” means any form of storage in which information is recorded, and includes any data, document, memo, voucher, noting on the file, minutes of meeting, e-mail, map, advice, press release, brochure, circular, order, decision, notification, logbook, contract, agreement, budget, report, paper, sample, model, map, drawing, CD, USB, disc, audio record, mobile device, film, video, any instrument prepared through electronic process, machine-readable documents
- (xi) “request” means a request for information and includes a request for information and a request for a specific record; and
- (xii) “third party” means a person other than the applicant.

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.- (1) Subject to provisions of this Act and any rules as may be prescribed, the principal officer of each public body shall ensure that all of the records that the body holds are properly maintained, including so as to enable it to comply with its obligations under this Act.

(2) To foster better record management, each public body shall be required to bring its record management practices into line with any standards in this area set by the Information Commission and within any timeframe for this that the Commission may stipulate.

5. Publication and availability of records.- (1) The principal officer of each public body shall, within six months of the commencement of this Act, ensure that the following categories of information are duly published 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) description of the public body's organisation and functions, duties, powers and any services it provides to the public, including a directory of its officers and employees, indicating their duties and functions, and their respective remunerations, perks and privileges;
- (b) statutes, statutory rules, regulations, bye-laws, orders, notifications applicable to the public body disclosing the date of their respective commencement or effect;
- (c) substantive or procedural rules and regulations of general application evolved or adopted by the public body, including any manuals or policies used by its employees;
- (d) relevant facts and background information relating to important policies and decisions which are being formulated or have been adopted, along with a statement of the policies adopted by the public body and the criteria, standards or guidelines upon which discretionary powers are exercised by it;
- (e) the conditions upon which members of the public can acquire any 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, along with particulars about the recipients of any concessions, permits, licences or authorisations granted 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 detailed budget of the public body, including proposed and actual expenditures, original or revised revenue targets, actual revenue receipts, revisions in the approved budget and the supplementary budget;
- (h) the methods whereby information in the possession or control of the public

body may be obtained and the basis of the fee required therefore, along with the name, title and contact details of all designated officers;

- (i) reports including performance reports, audit reports, evaluation reports, inquiry or investigation reports and other reports that have been finalised;
- (j) such other matters which the principal officer of the public body deems fit to be published in the public interest; and
- (k) such other information as may be prescribed.

(2) Any amendment, alteration or modification relating to matters described in sub-section (1) shall also be published and no person shall be adversely affected by any amendment, modification or alteration of any matter other than a statute.

6. Computerisation and voluntary disclosure of records.- Each public body shall endeavour within reasonable time and subject to availability of resources that all records covered under this Act are computerised and connected through a network all over the country on different systems so that authorised access to such public records is facilitated.

7. Designated official.- (1) Each public body shall, within forty-five days of coming into force of this Act, notify one or more designated officials, not below the rank of BPS-19 or equivalent:

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

8. Functions of designated official.- Subject to provisions of this Act and the rules made thereunder, the designated official shall be responsible for ensuring that requests are dealt with in accordance with this Act and generally for promoting full compliance by the public body with its obligations under this Act.

9. Requests.- (1) Subject to the provisions of this Act, anyone may lodge a request with a public body through the designated official.

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

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

(4) Subject to sub-section (3), a public body may provide an optional form for making requests, with a view to assisting applicants make requests.

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

(6) Where a request is received by a public body, the applicant shall be provided with a receipt acknowledging the request as soon as possible and via the same means by which the request was communicated, which shall include the date and name of the official responsible for processing it.

10. Assistance to applicants.- (1) A designated official shall take all reasonable steps to assist any applicant who needs such assistance.

(2) In particular, a designated official shall assist any applicant who is having problems describing the information sought in sufficient detail to enable the public body to locate that information, or who needs held due to disability.

(3) Where an applicant is unable to provide a written request, a designated official shall reduce the request to writing, and provide the applicant with a signed and dated copy of it.

11. 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 within five working days, and it shall inform the applicant 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 applicant within five working days, informing him of this.

12. Procedure for disposal of requests.- (1) A designated officer shall provide a written notice in response to a request.

(2) The notice shall indicate that—

- (a) the request has been accepted and the applicant is entitled to receive the information or record, subject to the payment of any applicable fee;
- (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 applicant in accordance with section 10;
- (c) the request has been rejected on the basis that the information is already available in a generally accessible form, such as a book, in which case the notice shall direct the applicant to the place where the information may be found;
- (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 applicant; 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 applicant to appeal against this decision.

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

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

14. 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.

15. Fees for requests.- (1) It shall be free to lodge requests.

(2) Fee may be charged for the actual costs of reproducing information and sending it to the applicant, in accordance with any schedule of fee 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 applicant demonstrates evidence of being below the poverty line.

16. Overriding inconsistent exceptions.- (1) The exceptions in this Act shall take precedence and exceptions or limitations 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.

(2) 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 be accessed directly, at the time of a request, based on clear and objective considerations.

17. Information exempt from disclosure.- Subject to provisions of this Act, a public body shall not be required to disclose exempt information, provided that—

- (a) 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 applicant;
- (b) even where information falls within the scope of an exception provided for in this Act, the information shall still be provided to the applicant where, on balance, the overall public interest favours disclosure of the information;
- (c) for the purposes of clause (b), 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
- (d) the exceptions set out in sections 18, 19, 21, 22 and 26 of this Act, shall cease to apply after a period of fifteen 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.

18. 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 relations between Pakistan and—

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

19. 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; or
- (e) harm the security of any property or system, including a building, a vehicle, a computer system or a communication system.

20. Privacy and personal information.- (1) 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 applicant.

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

- (a) the third party has consented to the disclosure of the information;
- (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.

21. Economic and commercial affairs.- Information is exempt if and so long as its disclosure is likely to cause—

- (a) grave and significant damage to the 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 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 acquisition or disposal of property or supply of goods or services; or
- (c) significant damage to lawful commercial activities of the public body.

22. National security.- Information may be exempt if its disclosure would be likely to cause serious prejudice to the defence or security of Pakistan.

23. Public health and safety.- Information may be exempt if its disclosure would be likely to endanger the life, health or safety of any individual.

24. Commercial interests of third parties.- Information may be exempt if—

- (a) the information was obtained from a third party and to communicate it would constitute an actionable breach of confidence; or
- (b) the information was obtained in confidence from a third party and—
 - (i) it contains a trade secret; or
 - (ii) to communicate it would be likely to seriously prejudice the commercial or financial interests of that third party.

25. Legal advice.- Information may be exempt if it is privileged from production in legal proceedings, unless the person entitled to the privilege has waived it.

26. Legitimate policy making and other operations of public authorities.- (1) Information may be exempt if its disclosure would be likely to—

- (a) cause serious prejudice to the effective formulation or development of government policy;
- (b) seriously frustrate the success of a policy, by premature disclosure of that policy;
- (c) significantly undermine the deliberative process in a public body by inhibiting the free and frank provision of advice or exchange of views;
- (d) significantly undermine the effectiveness of a testing or auditing procedure used by a public body; or
- (e) prejudice the proceedings in a court or a tribunal.

(2) clauses (a) and (b) of sub-section (1) do not apply to facts, analyses of facts, technical data or statistical information, or apply after the decision has been finalised.

27. Third parties.- (1) Where a request relates to information or a record provided on a confidential basis by a third party, the public body shall endeavour 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.

28. Complaints and appeals.- (1) An applicant who is not satisfied with the manner in which his or her application has been processed may, within a period of not exceeding thirty days after either receiving a decision or after the time limit for such a decision has passed, lodge a complaint with the principal officer of the public body and the principal officer shall decide on such a complaint within ten working days.

(2) Anyone who is not satisfied with the manner in which his complaint has been dealt with may lodge an appeal with the Information Commission to this effect, provided that—

- (a) appeals shall be free of charge;

- (b) the Information Commission shall decide any appeal within a period of sixty days; and
- (c) 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.

29. Information Commission.- (1) Within one hundred and twenty days of coming into force of this Act, the Government shall establish an Information Commission to be known as the Pakistan 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 the Government and any of its agencies, except as specifically provided for by this Act.

(3) The Information Commission shall comprise three Commissioners, who shall be appointed by the Government, in consultation with the Leader of the Opposition, in accordance with the following—

- (a) one retired judge of the High Court or Supreme Court, to be nominated by the Chief Justice;
- (b) one Advocate of the High Court or Supreme Court, to be nominated by the Bar Council; and
- (c) one respected representative of civil society, to be chosen from among nominees put forward by civil society by the relevant committee of the National Assembly.

(4) The Information Commission shall be headed by the Chief Information Commissioner, who shall be elected by the Commissioners from among their number.

(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 at the time of or during their appointment to the Information Commission and, once appointed, they shall work on full time basis and may not run any business or pursue any profession during their tenure as Commissioners.

(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 (7), or conduct which is materially inconsistent with the status of being a Commissioner, but only after being heard, provided that a Commissioner who has been removed pursuant to this sub-section shall have the right to appeal that removal before the courts.

30. 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 clause (k) of 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 applicants, in accordance with sub-section (2) of section 15 of this Act;
- (d) approve or reject extensions to the maximum period that information may be kept confidential, in accordance with clause (d) of section 17 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 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; 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 National Assembly and the Finance Division.

(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 or regulatory 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) publicise the requirements of this Act and the rights of individuals under it.

31. 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.

32. Funding for the Information Commission.- (1) Government shall make such a budgetary allocation to the Information Commission as the latter 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 the Finance Division 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 the Government.

(3) The remuneration and other benefits of the Chief Information Commissioner and Commissioners shall be set at the equivalent level of a Judge of the High Court.

33. 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.

34. 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.

35. 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 or abuse of authority regarding a public body.

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

- (a) publish and keep updated a list of all of the documents 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.

37. 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.

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

repealed.

39. Power to remove difficulty.- 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.

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

41. Power to make regulations.- The Information Commission may make regulations, not inconsistent with the provisions of the rules made under section 40, 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.

STATEMENT OF OBJECTS AND REASONS