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PART-IV

PROVINCIAL ASSEMBLY OF SINDH

NOTIFICATION

Karachi, the 22nd December, 2006

NO.PAS/LEGIS-8-16/2006-The Sindh Freedom of Information Bill, 2006 have been passed by the Provincial Assembly of Sindh on Wednesday, the 15th November, 2006 and assented to by the Governor of Sindh on Monday, the 18th December, 2006, is hereby published as an Act of the Legislature of Sindh.

THE SINDH FREEDOM OF INFORMATION ACT, 2006

SINDH ACT NO XIV OF 2006

(First published after having received the assent of the Governor of Sindh in the Gazette of Sindh (Extra-Ordinary) dated 22nd December, 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 matters connected therewith or incidental thereto;

Preamble

It is hereby enacted as follows:

Short title and commencement

1. (1) This Act may be called the Sindh Freedom of Information Act, 2006.

It shall come into force at once.

Definitions

2. In this Act, unless there is any thing 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 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 Office for the Province of Sindh Act,1991;
- (g) "prescribed" means prescribed by rules made under this Act ;
- (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 holds the record .

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

Access to Information not to be denied

(2) This Act shall be interpreted so as

- (i) to advance the purpose of this Act and
- (ii) to facilitate and encourage promptly and at the lowest reasonable cost the disclosure of information.

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

Maintenance and Indexing of records

5. The acts and subordinate legislation such as rules and regulations, notifications, by-laws, 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.

Publication and availability of records

6. 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.

Computerization of records

7. Subject to the provisions of section 8, the following record of all public bodies are hereby declared to be the public record, namely-

Declaration of public record

- 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 licences, 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 .

Exclusion of certain record

8. 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 defence forces, defence installations or connected therewith or ancillary to defence and national security;
- (f) record declared as classified by 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 Government may, in public interest, exclude from the purview of this Act .

Duty to assist requester

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

Designation of official

10. (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.

Functions of designated official

11. 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. (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.

Application for obtaining Information, etc.

(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. (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.

Procedure for disposal of applications.

- (2) In case the designated official is of the opinion that
- (a) the application is not in the form as has been prescribed;
 - (b) 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. Subject to the provisions of this Act, a public body shall not be required to disclose exempt information.

Exempt information from disclosure

International relations.

15. (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.

Disclosure harmful to law enforcement.

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

Privacy and personal information.

17. 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.

Economic and commercial affairs.

18. 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 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. (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.

Recourse to the Ombudsman.

(2) The Ombudsman 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. 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 thousands rupees.

Dismissal of frivolous, vexatious and malicious complaint.

21. 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 Act, commits an offence punishable with imprisonment for a term not exceeding two years, or with fine, or with both.

Offence.

22. 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.

Indemnity.

23. 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.

Act not to derogate other laws.

24. 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.

Power to remove difficulties.

Power to make rules.

25. (1) 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 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.

BY ORDER OF THE SPEAKER
PROVINCIAL ASSEMBLY OF SINDH

HADI BUX BURIRO
SECRETARY
PROVINCIAL ASSEMBLY OF SINDH

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27-12- 2006

CITIZENS FOR
A BETTER
ENVIRONMENT