

SINDH TRANSPARENCY& RIGHT TO INFORMATION ACT 2016

An Act to provide for promoting transparency in the working of every public authority by setting out a practical regime for every citizen to secure access to information under the control of public authorities, the constitution of a Sindh Information Commission and for matters connected therewith or incidental thereto.

PREAMBLE:

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

AND WHEREAS transparency and access to information are essential principles of democracy which not only enable the populace to hold the Governments and their institutions accountable but also help in 'improving the system of governance;

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

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

It is enacted as follows:

1. SHORT TITLE, EXTENT AND COMMENCEMENT:

- (1) This Act may be called the Sindh Transparency and Right to Information Act 2016.
- (2) It shall extend to the whole of the Province of Sindh.
- (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;
- b) "Commission" means the Sindh Information Commission established under this Act;

- c) "Commissioner" means an Information Commissioner and includes the Chief Information Commissioner;
- d) "Complaint" means a complaint made, in writing, to the Commission by an applicant on one or more of the following grounds:
 - i) wrongful denial of access to information;
 - ii) non provision of information within the stipulated time;
 - iii) refusal to receive and process the request from an applicant;
 - iv) furnishing false, misleading or incomplete information;
 - v) charging fee or cost for provision of information in excess of the requisite fee;
 - vi) deliberate destruction of information to avoid its disclosure;
 - vii) failure of a public body to implement the provisions regarding proactive disclosure; or
 - viii) violation of any other provision of the Act by a public body;
- e) "Government" means Government of Sindh;
- 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 created by the Government;
 - ii) a local government constituted under the Sindh Local Government Act 2013 or any other law for the time being in force;
 - iii) Secretariat of Governor of Sindh;
 - iv) any Court, Tribunal, Office, Board, Commission, Council, or other body functioning in the province of Sindh;
 - v) Provincial Assembly of Sindh;
 - vi) statutory body established under a provincial law; and
 - vii) a non-government organization substantially financed by the Government or a local government;
- i) "Designated Official" means a public information officer designated under Section 7 of the Act; and
- j) "right to information" means the right to obtain information accessible under the Act and includes the right to:
 - i) inspect any work or document;
 - ii) take notes, extracts or certified copy of a document;
 - iii) take certified sample of any material; and

- iv) obtain copy of information in electronic form.

3. Transparency of Actions:

Every Public Body shall at all times endeavor to maintain transparency in discharge of its functions.

4. Access to Information:

Subject to the provisions of this Act and any rules made therein, an Applicant may, in the prescribed manner, exercise the right to acquire information and/or record held by any Public Body.

5. Proper Maintenance of Records:

Subject to the provisions of this Act and any rules made herein, each Public Body shall ensure that all of the records which it holds are properly maintained 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 Sindh Information Commission.

6. Proactive Disclosure:

- (1) Subject to the provisions of this Act, a Public Body shall proactively disclose:
 - a) Particulars of its organization, functions and duties;
 - b) Powers and functions of its officers and employees;
 - c) Norms and criteria set by it for the discharge of its daily functions;
 - d) Rules, regulations, notifications, circulars, instructions and other legal instruments being enforced, issued or used by it or being used by its employees in the discharge of its functions;
 - e) Statement of categories of information that are under its control;
 - f) Description of its decision-making processes and any opportunities for the public to provide input into or be consulted about decisions;
 - g) Details of all its administrative and developmental decisions;
 - h) Directory of its officers and employees with their respective remuneration, perks and privileges;
 - i) Budget including details of all proposed and actual expenditures;
 - j) Manner of execution of subsidy programs;
 - k) Full particulars of the recipients of concessions, permits or authorizations granted by it;
 - l) Facilities available with the public body for obtaining information held by it;

- m) Complete particulars of its public information officer;
 - n) Any other information as may be prescribed.
- (2) For the purposes of sub-section (1), every Public Body shall disseminate all information as widely as possible including the internet where possible so that all citizens have easy access to it.
 - (3) Every public body shall endeavour to ensure proactive disclosure of information as explained in sub-section (1) of Sec on 6.

7. Appointment of Designated Official:

- (1) Every public body, within a period of 120 days from the commencement of this Act, designate and notify an officer or any appropriate number of officers to act and serve as a designated officer with whom the request for information under this Act may be lodged.
- (2) In case, no such officer is appointed, the person in-charge of the public body shall be deemed as a Designated Official.
- (3) The Designated Official shall be responsible for ensuring full compliance of the provisions of this Act.

8. Application Procedure:

- (1) Subject to the provisions of this Act, any citizen may make an application for obtaining information about the working of the Public Body. The said application may be made in any form or manner to the Designated Official.
- (2) The Applicant shall be required to provide reasons for request for information, adequate description of the information and the details necessary to provide the requisite information.
- (3) The Designated Official shall respond to the application as soon as possible and in any case within thirty (30) working days. In case, the required information is not readily available, the Designated Official shall intimate the Applicant and take another fifteen (15) working days for responding to the application.
- (4) Where the Designated Official decides not to provide the information, he shall intimate the Applicant the reasons for such decision along with a statement that the Applicant may file an internal review or a complaint against the refusal under this Act.
- (5) The information or the copy of any public record supplied to the Applicant shall contain a certificate at the foot thereof that the information is correct or the copy is a true copy of such public record, and such certificate shall be dated, signed and stamped by the Designated Official.

- (6) The public body or the Designated Official shall not charge any fee for making a request other than cost of reproducing or sending the information in accordance with a centrally set schedule of costs stipulated by the Sindh Information Commission.

9. Internal Review:

- (1) Where the Designated Official decides not to provide the information, the Applicant shall request the head of the public body for internal review of the said decision, in relation to what the Applicant regards as involving:
- a) a failure by the Designated Official to comply with any provision of this Act including failure to communicate decision within the specified time; or
 - b) unreasonable behavior by the Designated Official in the exercise of any discretion under the Act; or
 - c) provision of incomplete, misleading or false information under the Act; or
 - d) any other matter relating to requesting or obtaining access to information.
- (2) The Applicant shall, within sixty (60) days from the date of communication of the decision of the Designated Official or his failure to provide information within the stipulated time, submit a request, in writing, under subsection (1) and specify remedy which the Applicant seeks against the decision of the Designated Official.
- (3) The officer before whom an application for internal review is filed under this Section may exercise any of the powers of the Designated Official under this Act and shall, within thirty (30) days of the receipt of the application:
- a) confirm, modify or reverse the decision of the Designated Official;
 - b) notify the decision of internal review to the Applicant including reasons for the decision; and
 - c) order departmental action against the Designated Official if found negligent in performance of duties under this Act.

10. Exceptions:

- (1) The Designated Official or the Public Body may refuse an application for access to information where disclosure of the information, in their opinion, shall or is likely to:

- a) Cause harm to national interest;
 - b) Cause harm to national defence or security, public order or international relations of Pakistan;
 - c) Affect legitimate private interest, unless the person concerned has consented to disclosure of the information;
 - d) Affect protection of legally privileged information or of the rules relating to breach of confidence;
 - e) Affect legitimate commercial and financial interests of a public body or a third party, including information subject to third party's intellectual property rights;
 - f) Cause harm to life, health or safety of any person;
 - g) Affect law and order situation;
 - h) Reveal the identity of a confidential source or hamper investigation of a case;
 - i) Affect prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice;
 - j) Cause harm to the property of any citizen;
 - k) Affect the dignity of a citizen;
 - l) Cause damage to the economy as a result of premature disclosure of the proposed introduction, abolition or variation of any tax, duty or any other decision affecting the economy of the country; or
 - m) Affect the 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 Designated Official 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.

11. 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 Commission to this effect.
- (2) Complaints under sub-section (1) shall be free of charge.
- (3) The Commission shall decide any complaint within a period of sixty (60) days.

- (4) In an appeal, the Applicant shall bear the burden of proof of showing that the Designated Official or Public Body has acted in violation of this Act.

12. Sindh Information Commission:

- (1) The Government shall within a period of one hundred & twenty (120) days from the commencement of this Act, establish an Information Commission to be known as the Sindh 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 comprise of three members appointed by the Government on such terms and conditions as may be prescribed and until so prescribed, as are determined by the Government.
- (4) 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 the Government.
- (5) The Information Commission, besides the Chief Information Commissioner shall comprise of two other Members to be known as Commissioners, who shall be appointed in the following manner:
 - a) One Advocate of High Court or Supreme Court, who is qualified to be a Judge of High Court; and
 - b) A person from the civil society having experience of not less than fifteen years in the field of mass communication, academia or right to information.
- (6) The Chief Information Commissioner and the Commissioners shall hold office for a term of three (03) years from the date on which they assume office and shall not be eligible for reappointment.
- (7) Notwithstanding anything contained in sub-section (5), the Chief Information Commissioner and Commissioners shall not hold office after they have attained the age of sixty-five (65) years.
- (8) 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.
- (9) 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, failing to fulfil

conditions for being a Commissioner or conduct which is materially inconsistent with the status of being a Commissioner.

- (10) Notwithstanding any other Section, the Government may initiate the process of removing any Commissioner on the grounds of misconduct and physical or mental incapacity. Provided that before making any such decision, the Government shall communicate the charges to the Commissioner and afford him reasonable opportunity to explain his position.
- (11) If the Government is not satisfied with the defence offered by the Commissioner, it may refer the case to Provincial Assembly for an enquiry by a Special Committee to be constituted by the Speaker of Provincial Assembly.
- (12) If the Committee finds the Commissioner guilty of any of the charges mentioned in subsection (10), the Government shall remove the Commissioner.

13. Functions of the Commission:

- (1) The Commission may:
 - (a) conduct an inquiry on a complaint and may direct a Public Body to disclose information to the Applicant;
 - (b) determine the public interest in terms of Section 10 (2) of this Act;
 - (c) resolve any inconsistencies in the application of the provisions of this Act or the rules or regulations.
- (2) The Commission shall decide a complaint within sixty (60) days of its receipt and pass appropriate orders including recommending disciplinary proceedings against delinquent officials.
- (3) The Commission may exercise the powers of a Civil Court to:
 - a) summon and enforce attendance of persons, compel them to give oral or written evidence on oath and to produce documents or information;
 - b) examine and inspect information;
 - c) receive evidence on affidavits;
 - d) requisition relevant information from any office; and
 - e) issue summons for witnesses or documents.
- (4) While inquiring into a complaint, the Commission or any person authorized by the Commission, may examine any information on spot.
- (5) The Commission shall facilitate the application of the provisions of this Act and may:

- a) issue directives to public bodies for preservation, management, publication, publicity and access to information;
 - b) prescribe the procedure for accessing information from a public body;
 - c) advise and provide support to the Government to make necessary laws and procedures for implementation of the right to information;
 - d) provide technical and other support to the public bodies for effective enforcement of right to information;
 - e) conduct training of the Designated Officials;
 - f) undertake mass awareness campaign to create awareness about the Act, rules and regulations;
 - g) establish an information web-portal;
 - h) compile a user handbook in Urdu and English, containing such information in easily comprehensible form and manner, as may reasonably be required by an applicant; and
 - i) compile guidelines for use by Designated Officials.
- (6) The Commission shall prepare an annual report on the implementation of the provisions of this Act during a financial year and submit it to the Government.
- (7) The annual report of the Commission shall, in particular, contain the following information:
- (a) status of right to information law, rules, regulations and procedures;
 - (b) progress on implementation of the freedom of information law, including district and department-wise summaries of information requests showing current status of each information request;
 - (c) hurdles being faced in the implementation of freedom of information law; and
 - (d) budget, expenses and other organizational matters.

14. Allocation of Funds:

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

15. Penalty on Designated Official:

Where a Designated Official has, without any reasonable cause, refused to receive an application, has not furnished information within time limits, or with malafide intent denied the request or knowingly gave incorrect, incomplete or misleading information, the Commission may, after providing sufficient

opportunity of defence to the Designated Official, direct the said officer to pay fine which may extend to ten thousand rupees.

16. Offence:

In addition to any other action under any other law, any person who destroys a record which at the time it was destroyed was the subject of an application for access to information, internal review or complaint, or otherwise obstructs access to information which is the subject of an application; internal review or complaint, with the intention of preventing its disclosure under this Act, shall commit an offence punishable with imprisonment for a term which may extend to two (02) years or with fine which shall not be less than ten thousand rupees or with both.

17. Bar of Suits, etc:

No Court shall entertain a suit, application or other proceeding in respect of any decision made under this Act and the decision shall not be called in question otherwise than by way of an internal review or a complaint under the Act.

18. Power to Make Rules:

The Government in consultation with the Commission may, by notification in the official Gazette, make rules for carrying the purposes of this Act.

19. Power to Remove Difficulties:

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

20. Interpretation:

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

21. Indemnity:

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

22. Act to take Precedence Over Other Laws:

The provisions of this Act shall take precedence over the provisions of any other law

23. Repeal:

The Sindh Right to Information Act 2006 is hereby repealed.