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THE PUNJAB TRANSPARENCY AND RIGHT TO INFORMATION ACT 2013

(XXV of 2013)

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Access to information
4. Proactive disclosure
5. Punjab Information Commission
6. Functions of the Commission
7. Designation of public information officers
8. Maintenance and indexing of information
9. Annual report of public bodies
10. Application procedure
11. Transfer of application
12. Internal review
13. Exceptions
14. Allocation of funds
15. Penalty on public information officer
16. Offence
17. Cognizance of offence under this Act
18. Bar of suits etc
19. Power to make rules
20. Power to frame regulations
21. Power to remove difficulties
22. Interpretation
23. Indemnity

24. Act to take precedence over other laws

25. Repeal

TEXT

[1]THE PUNJAB TRANSPARENCY AND RIGHT TO INFORMATION ACT 2013

(XXV of 2013)

[16th December, 2013]

An
Act

to provide for transparency and freedom of information in the Punjab.

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

It is enacted as follows:–

1. Short title, extent and commencement.– (1) This Act may be cited as the Punjab Transparency and Right to Information Act 2013.

(2) It extends to the whole of the Punjab.

(3) It shall come into force at once.

2. Definitions.– In this Act–

(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 Punjab 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;

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[1]This Act was passed by the Punjab Assembly on 12 December 2013; assented to by the Governor of the Punjab on 14 December 2013; and published in the Punjab Gazette (Extraordinary), dated 16 December 2013, pages 1801-1808.

(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 the Punjab;

(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 Punjab Local Government Act 2013 (XVIII of 2013) or any other law for the time being in force;

(iii) Secretariat of Governor of the Punjab;

(iv) any court, tribunal, office, Board, Commission, Council, or other body substantially financed by the Government;

(v) Provincial Assembly of the Punjab;

(vi) statutory body established under a provincial law; and

(vii) 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 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. Access to information.– Subject to the provisions of this Act, an applicant may, in the prescribed manner, exercise the right to information.

4. Proactive disclosure.– Subject to the provisions of this Act, a public body shall proactively disclose–

(a) particulars of the public body, its functions and duties;

(b) powers and functions of its officers and employees;

(c) norms and criteria set by the public body for the discharge of its functions;

(d) Acts, Ordinances, rules, regulations, notifications, circulars and other legal instruments being enforced, issued or used by the public body in the discharge of its functions;

(e) a statement of categories of information being held 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 directory of its officers and employees with their respective remuneration, perks and privileges;

(h) budget of the public body including details of all proposed and actual expenditures;

(i) amount of subsidy and details of beneficiaries if the public body provides any subsidy;

(j) particulars of the recipients of concessions, permits or authorizations granted by the public body;

(k) facilities available with the public body for obtaining information held by it;

(l) name, designation and other particulars of the public information officer of the public body; and

(m) any other information that the Government may notify in the official Gazette.

5. Punjab Information Commission.– (1) The Government shall establish a Commission, to be called 'Punjab Information Commission'.

(2) The Commission shall consist of not more than three Information Commissioners to be appointed from amongst the following:–

(a) a person who has been or is qualified to be a Judge of the High Court;

(b) a person who is or has been in the service of Pakistan in basic scale 21 or equivalent; and

(c) a person from civil society having a degree based on sixteen years of education from a recognized institution and experience of not less than fifteen years in the field of mass communication, academic or right to information.

(3) The Government shall, on such terms and conditions as may be prescribed and until so prescribed as are determined by the Government, appoint the Commissioners.

(4) The Government shall nominate one of the Commissioners as Chief Information Commissioner who shall be the chief executive of the Commission.

(5) No person shall be appointed as Commissioner if he is more than sixty-five years of age on the date of appointment.

[2][(6) A Commissioner shall hold office for a term of three years extendable for another three years.]

(7) A Commissioner shall not hold any other public office or any other office of profit or be connected with any political party and shall not engage himself in any business or profession during the period he holds office of the Commissioner.

(8) Subject to subsections (9), (10) and (11), a Commissioner shall be liable to removal on grounds of misconduct or physical or mental incapacity.

(9) Before removing a Commissioner, the Government shall communicate the charges to the Commissioner and afford him reasonable opportunity to explain his position.

(10) If the Government is not satisfied with the defence offered, it may refer the case to Provincial Assembly of the Punjab for an open enquiry by a Special Committee to be constituted by the Provincial Assembly.

(11) If the Committee finds the Commissioner guilty of any of the charges mentioned in subsection (8), the Government shall remove the Commissioner.

(12) If Provincial Assembly of the Punjab is dissolved and the situation mentioned in subsection (8) has arisen, the Speaker of the Provincial Assembly shall constitute a special committee and such special committee may exercise the powers of special committee of the Provincial Assembly until the election of the new Provincial Assembly.

6. Functions of the Commission.– (1) The Commission may–

(a) conduct an inquiry, on its own accord or on a complaint, and may direct a public body to disclose information to an applicant or in a proactive manner;

(b) determine the public interest in terms of section 13;

(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 thirty days of its receipt or, for good reasons to be recorded in writing, within sixty days.

(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 information from any office; and

(e) issue summons for witnesses or documents.

[2]Substituted by the Punjab Transparency and Right to Information (Amendment) Act 2021 (III of 2021), published in the Punjab Gazette (Extraordinary), dated: 17th March 2021, pp. 7101-7102 s.2.

[3][(4) While inquiring into a complaint, any Commissioner subject to distribution of work by Chief Information Commissioner or any other 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 public information officers;

(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 many reasonably be required by an applicant; and

(i) compile guidelines for use by the public information officers.

[4][(6) The Commission shall prepare an annual report on the implementation of the provisions of this Act during a financial year by 31 August and shall lay it before Provincial Assembly of the Punjab.]

(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.

7. Designation of public information officers.– (1) A public body shall, within sixty days of the commencement of this Act, designate and notify as many officers as public information officers in all administrative units or offices under it, as may be necessary.

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[3]Substituted by the Punjab Transparency and Right to Information (Amendment) Act 2021 (III of 2021), published in the Punjab Gazette (Extraordinary), dated: 17th March 2021, pp. 7101-7102 s.3.

[4]Substituted by the Punjab Transparency and Right to Information (Amendment) Act 2021 (III of 2021), published in the Punjab Gazette (Extraordinary), dated: 17th March 2021, pp. 7101-7102 s.3.

(2) Subject to the provisions of this Act, a public information officer shall provide information to an applicant, and shall perform such other functions as may be prescribed to achieve the purpose of this Act.

(3) The public information officer may seek necessary assistance of any other officer of the public body.

(4) Any officer whose assistance has been sought under subsection (3) shall render all assistance to the public information officer seeking his assistance and for purposes of any contravention of the provisions of this Act, such other officer shall be deemed as public information officer.

8. Maintenance and indexing of information.– (1) Subject to provisions of this Act and the rules or regulations, a public body shall maintain information relating to the body in an easily accessible form.

(2) A public body shall, within the time prescribed by the Commission for any special or general categories of information, computerize or maintain in electronic form the information to enable–

(a) easy retrieval of information; and

(b) easy and authorized electronic access of information by an applicant.

9. Annual report of public bodies.– A public body shall publish in electronic form or otherwise an annual report of its activities under this Act during the previous financial year by 31 August each year in such manner as may be prescribed and make the report available for public inspection free of charge and for purchase at a reasonable cost.

10. Application procedure.– (1) An applicant may make an application to a public information officer on an information request form or on plain paper and the public information officer shall acknowledge receipt of the application.

(2) A public body shall make easily available to the public the information request form both in printed and electronic form.

(3) An applicant shall not be required to provide reasons for request for information and shall only be required to provide an adequate description of the information and the details necessary to provide the requisite information.

(4) Where an applicant is having difficulty making a request, including because he cannot describe the information in sufficient detail or because he is disabled or illiterate, the concerned public information officer shall provide reasonable assistance to the applicant.

(5) Where an applicant has indicated a preferred form of access, including a physical copy, an electronic copy or an opportunity to inspect documents, the public body shall provide access in that form unless doing so is likely to interfere with its operations or harm the document and in that case the information shall be provided in such form as may serve the purpose.

(6) The public body 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 Commission.

(7) The public information officer shall respond to an application as soon as possible and in any case within fourteen working days, provided that this may be extended by a maximum of a further fourteen working days where this is necessary, including because the request requires a search through a large number of records or consultation with a third party or any other public body, but the public information officer shall provide the information relating to life or liberty of a person within two working days of the receipt of the application.

(8) Where the public information officer decides not to provide the information, he shall intimate to 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.

(9) The information from, or the copy of, any public record supplied to the applicant under subsection (1) 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 public information officer.

11. Transfer of application.– (1) Where an officer of a public body other than the concerned public information officer receives an application for access to information, such officer shall immediately transfer the application to the concerned public information officer under intimation to the applicant and the public information officer shall process the application as if he had received it under section 10.

(2) If the information or part of the information requested in an application is not available with the public body or the office of the public body, the public information officer shall, within seven days and under intimation to the applicant, transfer the application to the public information officer to whom the application should have been made for provision of the information or part of the information.

(3) If the public information officer does not know the public body or the office where the requested information or part of the information may be available, he shall inform the applicant that the requested information or part of the information is not available with the public body.

(4) If an application is transferred to another public information officer under subsection (2), the other public information officer shall process the application as if the other public information officer received the application under section 10.

12. Internal review.– (1) If an applicant does not file a complaint with the Commission, he may request the head of the public body for internal review of any decision of the public information officer in relation to what the applicant regards as involving–

(a) a failure by the public information officer to comply with any provision of this Act including failure to communicate decision within the specified time; or

(b) unreasonable behaviour by the public information officer 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) An applicant shall, within sixty days from the date of communication of the decision of the public information officer or failure of the public information officer 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 public information officer.

(3) The officer before whom an application for internal review is filed under this section may exercise any of the powers of the public information officer under this Act and shall, within fourteen days of the receipt of the application–

(a) confirm, modify or reverse the decision of the public information officer;

(b) notify the decision of internal review to the applicant including reasons for the decision; and

(c) order departmental action against the public information officer if found negligent in performance of duties under this Act.

13. 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 defence 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) procedure for internal review or 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.

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 among the public, public servants and civil society.

15. Penalty on public information officer.– Where a public information officer has, without any reasonable cause, refused to receive an application, has not furnished information within time limits, or *malafidely* denied the request or knowingly gave incorrect, incomplete or misleading information, the Commission may, after providing sufficient opportunity of defense to the public information officer, direct the public information officer to pay fine not exceeding two days' salary for each day of delay or to pay fine which may extend to fifty 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, commits an offence punishable with imprisonment for a term which may extend to two years or with fine which shall not be less than ten thousand rupees or with both.

17. Cognizance of offence under this Act.– A court shall not take cognizance of the offence punishable under section 16 of this Act except on a report in writing of the facts constituting such offence made with the previous sanction of the Commission or an officer authorized by the Commission.

18. Bar of suits etc.– A court shall not 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.

19. Power to make rules.– (1) The Government, in consultation with the Commission and by notification in the official Gazette, may make rules for carrying out the purposes of this Act.

(2) The rules shall also provide elaboration of the following provisions of this Act:–

(a) procedure for proper maintenance, indexing and storage of information, including details of information to be published in an electronic form;

(b) procedure for filing of request for information and a schedule of the costs for providing the information;

(c) handling and internal review mechanisms;

(d) information that shall be included in the annual report of each public body;

(e) procedure for publishing, displaying and obtaining the annual report;

(f) designation of public information officers, and if required, any other official delegates, and their duties and responsibilities;

(g) procedure for removal of a Commissioner, including definition of misconduct;

(h) finances, budgeting and staffing related to the Commission and its secretariat;

(i) responsibilities of Commissioners, mechanism for taking decisions, quorum requirements and procedures in case of non-availability of one or more Commissioners;

(j) provisions regarding imposition of penalties or fines; and

(k) any fees that may be charged by a public body in carrying out the provisions of this Act.

20. Power to frame regulations.– Subject to this Act and the rules, the Commission may, by notification, frame regulations to give effect to the provisions of the Act and the rules.

21. 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.

22. Interpretation.– This Act, the rules and regulations 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.

23. 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 or regulations made under the Act.

24. Act to take precedence over other laws.– (1) The provisions of this Act shall take precedence over the provisions of any other law.

(2) An exception mentioned in section 13 shall take precedence and any exception or limitation in any other law on right to information may not be construed to extend the scope of the exception in this Act, although such provision in other law may elaborate on the exception mentioned in section 13.

25. Repeal.– The Punjab Transparency and Right to Information Ordinance (IV of 2013) is hereby repealed.