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BALOCHISTAN PROVINCIAL ASSEMBLY SECRETARIAT.

NOTIFICATION.
Dated Quetta, the 16th February,2021. /3063

No.PAB/Legis;V(02)/2021. The Balochistan Right to Information Bill, 2021 (Bill No. 02 of 2021).having been passed by the Provincial Assembly of Balochistan on 1st February,2021 and assented to by the Governor, Balochistan on 15th February,2021 is hereby published as an Act of the Balochistan Provincial Assembly.

The Balochistan Right To Information Act, Act No. II of 2021.

AN
ACT

to provide for ensuring transparency and access to information in Balochistan.

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

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

It is hereby enacted as follows:-

Short title, extent and Commencement.

1. (1) This Act may be called the Balochistan Right to Information Act, 2021.

(2) It extends to the whole of Balochistan, except the Tribal Areas.

(3) It shall come into force at once.

Definitions.

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

(a) "Act" means the Balochistan Right to Information Act, 2021.

(b) "applicant means a person who is citizen of Pakistan, seeking information under this Act and includes a person authorized on his behalf;

(c) "Complaint" means any allegation in written made by or in behalf of an applicant that his request for information has not been dealt with by a public body in accordance with the rules and procedures set out in this Act, including where he has been wrongfully denied access to record or information.

(d) "Commission means the Balochistan Information commissioner established under this Act;

(e) "commissioner" means an Information commissioner and includes the chief information commissioner;

(f) "Complainant" means,-
  (i) an applicant; and
  (ii) a person acting for an on behalf of an applicant;

(g) "employee or official" in relation to a public body means a person employed in a public body whether permanently or

(i) "information" means any information held by a public body and includes any memo, book, design, map, contract, representation, pamphlet, 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;

(j) "Information Commission" means the Balochistan Information Commission established under section 17 of this Act;

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

(l) "province" means the province of Balochistan;

(m) "public" Information officer" means a public Information officer designated under section 6 of this Act;

(n) "Public body" means:

(i) any department or attached department of the Government;

(ii) secretariat of chief Minister and Governor of Balochistan;

(iii) secretariat of the Provincial Assembly, Balochistan;

(iv) subordinate judiciary i.e. Courts of District and Sessions Judges, Courts of Additional District and Sessions Judges, Courts of Senior Civil Judges, Courts of Civil Judge and Courts of Magistrates, Office, Board, Commission (including the Balochistan public Service Commission), Council or any other body established by, or under, any Law;

(v) Tribunal;

(vi) Any body which is owned, controlled or substantially founded by one of the above, including enterprises owned by the province; or which undertakes a public function;

(vii) a Local Government constituted under the Balochistan Local Government Act, 2010 (Act V of 2010);

(viii)a non Governmental organization financed by the Government or a local Government;

(o) "record" means information which is recorded in any form;

(p) "request for information" means and includes a request for information and a request for a specific record;

(q) "Rules" means rules made under this Act.

Access to Information.

3. (1) an applicant in the prescribed manner, shall subject to the provisions of this Act and any rules made under it, have the right to access any information or record held by a public body, as mentioned under this Act.

Maintenance and indexing of records.

4. Subject to the provisions of this Act and in accordance with the rules as may be prescribed thereunder, each public body shall ensure that all of the records which it holds are properly maintained, including 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 Information Commission.

Publication and availability of records.

5. (1) the following categories of information shall be duly published by public bodies 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) Acts, ordinances and subordinate legislation such as rules, regulations, notifications, bye-laws, circulars, Manuals and Orders having the force of law in the province, including being made available at a reasonable price at an adequate number of outlets to ensure reasonable access by the public;

(b) information about the public body, including its organization, functions, duties, powers and any services it provides to the public;

(c) a directory of its officers and employees, including a description of their powers and functions and their respective remunerations, perks and privileges;

(d) norms and criteria set by the public body for the discharge of its functions, including any rules, manuals or polices used by its employees to this end;

(e) a detailed budget of the public body, including proposed and actual expenditures;

(f) details about any subsidy or benefit programmes operated by the public body, including details about the amount or benefits provided and the beneficiaries;

(g) particulars of the recipients of concessions, permits, licenses or authorizations granted by the public body

(h) a description of the manner in which requests for information may be made to the public body, including the name, title and contact details of all designated officers; and

(i) such other information that the Government may notify in the official Gazette.

(2) public body shall also publish an annual report on what they have done to implement their obligations under this Act, which shall include detailed information about the requests

for information which they have received, and how they have processed these requests.

(a) Such report shall be forwarded to the Information Commission.

Designation of officer as public Information officer.

6. (1) On commencement of this Act, a public body shall within a period of one hundred and twenty (120) days, designate and notify an officer to act as Public Information Officers in all administrative Departments/Sub-ordinance Offices/Units/ Districts or offices under it, for the purposes of this Act, with whom request for information under this Act may be lodged.

(2) The Public Information Officer shall be responsible for ensuring that requests for information are dealt in accordance with this Act and generally for promoting full compliance by the public body with its obligations under this Act.

Request for Information.

7. (1) Subject to the provisions of this Act, an applicant may lodge a request for information which is of public importance/interest or interest of applicant with a public body through a public Information officer.

(2) A request for information shall be made in writing and lodged in any manner in which the public body has the facilities to receive it, including in persons, by mail, by fax or by e-mail: provided that such application, mail, fax or e-mail, shall be accompanied by a copy of computerized National Identity Card of the applicant, for the purpose of Identity of such applicant.

(3) any written request for information 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 for information.

(4) Subject to sub-section (3), a public body may provide an Optional Form for making requests for information, with a view to assisting applicant to make request.

(5) The applicant shall be required to provide appropriate reasons for his request.

(6) Where a request for information is received by a public body, the applicant shall be provided with a receipt acknowledging the request, including the date and name of the official responsible for processing it.

Assistance to applicants.

8. (1) An Information Officer shall take all reasonable steps to assist any applicant who needs such assistance.

(2) In particular, an Information officer 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, an Information officer shall reduce the request into

(4) under Public Information Officer decides not to provide the information he shall intimate to the applicant the reasons for such decision alongwith a statement that the applicant may file an internal re-view or a complaint under this Act.

Where information is not held and Transfer of application.

9. (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, 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, informing him of this.

Procedure for Disposal of Requests.

10. (1) An Information Officer shall provide a written notice in response to a request for information.

(2) The notice shall indicate that:

(a) the request has been accepted and an applicant is entitled to receive the information or record, subject to the approval of the Secretary of the Administrative Department concerned or the head of public body as the case may be and on payment of any applicable fee; or

(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 8; or

(c) the request has been rejected on the basis that the information is already available in published form, including in the official Gazette or in another 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; or

(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 provide 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 applicant to appeal against this decision.

Time line for responding.

11. (1) Subject to the provisions of this Act, a public body shall be required to respond to a request for information in

accordance with section 7 as soon as possible and in any case within 15 working days of the receipt of request.

(2) The period stipulated in sub-section (1), may be extended by a maximum of a further 15 working days where this is necessary because the request requires a search through a large number of records or record 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 will be provided within two working days.

Form for Providing Information.

12. 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.

Fees for Requests.

13 (1) It shall be free to lodge requests for information.

(2) Fees may be charged or the actual costs of reproducing information and sending it to the applicant, in accordance with any schedule of fees which may be adopted by the Information Commission.

(3) No fee shall be charged for the first ten pages of information provided, or where the requester is below the poverty line.

Internal Review.

14 (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 application 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

Exceptions.

15. (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 relation of Pakistan;

(b) a legitimate privacy interest, unless the person concerned has consented to disclosure of the information;

(c) summaries and noting on the files;

(d) the legitimate commercial interest 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) resulting commission of an offence;

(g) the prevention, investigation, inquiry, detection of crime, the apprehension or prosecution of offenders, or the administration of justice;

(h) the ability of the Government to manage the economy; or

(i) 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;

(j) reveal the identity of a confidential bases of information in relation to an investigation;

(k) facilitate an escape from legal custody;

(l) the security of any property or system, including a building, a vehicle, a computer, a computer system or a communication system;

(m) cause significant damage to the legitimate financial interests of the public body, including by giving an unreasonable advantage to any person in relation to a contact while that person is seeking to enter into with the public body or by revealing information to a competitor of the public body.

(2) where apart 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.

(3) 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 the 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.

(4) 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 to a further twenty years.

Legal Privilege.

16. A public body may refuse a request for information which is privileged from production in legal proceedings, unless the person entitled to the privilege has waived it.

Complaints.

17. (1) an applicant who believes that his request has not been dealt in accordance with the provisions of this Act has the right to loge a complaint with the information Commission to this effect.

(2) Complaints under sub-section (1) shall be free of charge.

(3) the Information Commission shall decide any complaint within a period of sixty (60) days.

(4) 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.

Information Commission.

18. (1) On the commencement of this Act, Government shall within a period of one hundred and twenty (120) days, establish a Information Commission to be known as the Balochistan Information Commission.

(2) The Information Commission shall be an independent statutory body, which shall enjoy operational and administrative authority 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 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 Government.

(4) The Information Commission shall comprise of three other Members to be known as Commissioners, who shall be appointed in the following manner:

(a) a person, who is qualified to be a Judge of High Court;

(b) a person who is or has been in the service of Pakistan in BPS-20 or equivalent;

(c) a person from civil society having experience of not less than fifteen years in the field of mass communication, academic or right to information.

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

(6) The Chief Information Commissioner and the Commissioners shall hold office for a term of three years, from the date on which they assume office and shall not be eligible for re-appointment.

(7) Notwithstanding anything contained in sub-section (5), the Chief Information Commissioner and Commissioners shall not hold officer after they have attained the age of sixty five (65) years.

(8) A Commissioner may not hold any other public officer, or be connected with any political party or be running any business or pursuing any profession at the time of or during the period, the holds office of the commissioner.

Functions and Powers of the Information Commission.

19. (1) The Information Commission shall have a primary responsibility to received 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 sub-section (1) of section 5 of this Act;

(c) adopt a schedule of the fees public bodies may charge for providing information to applicant, in accordance with sub-section (2) of section 13 of this Act;

(d) approve or reject extensions to the maximum period that information may be kept confidential, in accordance with clause (f) of section 15 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 for information 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 pursuant to sub-section (2) of section 5 of this Act; 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 Provincial Assembly and the Department of Finance.

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

(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 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) publicize the requirements of this Act and the rights of individuals under it.

(4) The Information Commission shall have all powers, direct or incidental, as are necessary to undertake its functions as provided for in this Act, and the power to acquire, hold and dispose of property.

(5) The Information Commission shall also have the power to conduct inquires, in relation to either a complaint or 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 under Code of Civil Procedure (CPC), 1908 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 documents or things;

(c) inspect the premises of public bodies; and

(d) examining and inspecting information.

Removal of Commissioner.

20. (1) Subject to subsection (2) (3) (4) and (5) a commissioner shall be liable to removal on grounds of misconduct or physical or mental incapacity or keeps himself absent in three consecutive meeting of the information commission without any reasonable cause.

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

(3) If the Government is not satisfied with his reply/explanation offered, it may refer the case to the Provincial Assembly of Balochistan for an open inquiry by a special committee to be constituted by the Provincial Assembly.

(4) If the Committee finds the Commissioner is guilty of any of the charges mentioned in sub-section (1), the Government shall remove the commissioner.

(5) If the Provincial Assembly of Balochistan is dissolved and the situation mentioned in sub-section (1) has arisen, the Speaker of the Balochistan Assembly shall constitute a special committee which may exercise the powers of special committee of the Balochistan Assembly until the election of the new Balochistan Assembly.

Funding for the Information Commission.

21. (1) Government shall make such a budgetary allocation to the Information Commission as it may deem appropriate to discharge its responsibilities effectively, including hiring the requisite staff to enable it to conduct its business properly, and shall provide the funds indicated through a reasonable schedule of payment throughout the year.

(2) For purpose of implementing sub-section (1), the Information Commission shall present a budget proposal to Government.

(3) The Chief Information Commissioner and Commissioners shall be entitled to such remuneration and allowances as the Government may determine.

Penalty on public Information Officer.

22. Where a public information officer has, without any reasonable cause, refused to received 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 defence to 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 twenty thousand rupees.

Provided that imposition of such fine shall not adversely impact terms and conditions of his services; however, on repetition, the order for his designation to perform as information officer may be withdrawn and other person may be designated as Information officer in his place.

Offence.

23. (1) Any person who:-

(a) destroys a record which at the time it was destroyed was the subject of an application for access to information, internal review or complaint;

(b) obstructs access to information which is the subject of an application, internal review or complaint, with intention of preventing its disclosure under this Act;

(c) obstructs the performance by a public body of a duty under this Act;

(d) destroys a record without lawful authority ; or

(e) uses the information obtained for malafide purposes with ulterior motives with facile; frivolous design.

(2) such person shall be deemed to have committed an offence punishable with imprisonment for a term which may extend to two years or fine which shall not be less than ten thousand rupees or with both.

Cognizance of Offence under jurisdiction this Act .

24. A court of competent Jurisdiction shall not take cognizance of the offence punishable under section 22 of this Act except on a report in writing of the fact constituting such offence made with the previous sanction of the Commission .

Indemnity.

25. No one may be subject to any legal, administrative or employment-related sanction for anything which is done in good faith or intended to be done in pursuance of this Act or any rules made there under.

Power to Remove Difficulties.

26. 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 appears to it to be necessary or expedient for removing the difficulty.

Power to make Rules.

27. Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Power to Frame Regulations.

28. Subject to the provision of the Act and the rules, the Commission may, by notification, in the official gazette make regulations to give effect to the provisions of this Act and the rules framed thereunder.

Repeal and Saving

29. The Balochistan Freedom of Information Act, 2005 (Act No.VI of 2005) is hereby repealed.

(2) Notwithstanding the repeal of the Balochistan Freedom of Information Act, 2005 (Act No.VI of 2005)) hereinafter referred as the repealed Act, any rules, orders and notification issued, anything done, action taken, obligation, liability, penalty or punishment incurred, inquiry or proceeding commenced, officer appointed or person authorized, jurisdiction or powers conferred under any of the provision of the repealed Act, if not inconsistent with the provision of this Act, shall continue to be in force,, and shall deemed to have been respectively made, issued, done, taken incurred, commenced, appointed, authorized, conferred under this Act.

(TAHIR SHAH KAKAR)
Secretary.