

Access to
Information
Law

UNOFFICIAL TRANSLATION

Contents

Chapter 1	5
General Provisions	5
The Basis	5
Article 1	5
Aim	5
Article 2	5
Terminology	5
Article 3	5
Provision of Information	6
Article 4	6
Chapter 2	6
Method of Access to Information	6
Right to Information	6
Article 5	6
Request for Information	6
Article 6	7
Timeline for Responding to Request	7
Article 7	7
Expenses	7
Article 8	7
Information Delivery Methods	7
Article 9	7
Acquisition of Information through Interview	7
Article 10	7
Chapter 3	8
Dissemination of Information	8
Establishment of Information Office	8
Article 11	8
Duties of Information Office	8
Article 12	8
Refusal of Information Request Form	8

Article 13.....	8
Information about Third Party.....	9
Article 14.....	9
Duty to Publish	9
Article 15.....	9
Disclosure of the Source of Information.....	9
Article 16.....	9
Sanctions	9
Article 17.....	9
Chapter 4	10
Access to Information Oversight Commission.....	10
Formation	10
Article 18.....	10
Qualifications for Membership in the Commission	11
Article 19.....	11
Circumstances that Result in Losing Membership.....	11
Article 20.....	11
Duties of the Commission.....	12
Article 21.....	12
Meetings of the Commission.....	12
Article 22.....	12
Timeline for Reporting of Provincial Commissions.....	13
Article 23.....	13
Limitations	13
Article 24.....	13
Implementing the Decisions of the Commission	13
Article 25.....	13
Secretariat	13
Article 26.....	13
Chapter 5	14
Complaints.....	14
Complaints of Requesters.....	14

Article 27.....	14
Infringement and Disciplinary Measures.....	14
Article 28.....	14
Punishment.....	14
Article 29.....	14
Prosecution.....	15
Article 30.....	15
Chapter 6	15
Miscellaneous Provisions.....	15
The Price of Information Request Form	15
Article 31.....	15
Overriding Rule	16
Article 32.....	16
Monetary Deposits	16
Article 33.....	16
Enactment of Bylaws, Procedures and Guidelines	16
Article 34.....	16
Entry into Force	16
Article 35.....	16
Information Request Form	16

In the Name of Almighty Allah, the Most Gracious, the Most Merciful

Access to Information Law

Chapter 1 General Provisions

The Basis

Article 1

This law has been enacted pursuant to the provision of Article 50 of the Constitution of the Islamic Republic of Afghanistan.

Aim

Article 2

This law aims to:

1. Ensure the right of the citizens of the country to information held by government organizations;
2. Regulate the way information is requested and provided;
3. Observe the International Convention on Civil and Political Rights; and
4. Ensure transparency and accountability of the performance of government organizations.

Terminology

Article 3

The following terms [as used] in this law shall have the meanings provided below:

1. "Information" means any records (documents) or data.
2. "Personal Information" means any and all information about a person including first name, last name, address of residence, place of work, life and family circumstances, letters, correspondences, transactions, bank accounts, passwords and other types of information that are not related to their official duties.
3. "Information Requesting Party" is a real or legal local person that requests their required information from government organizations.

4. "Publishing" means dissemination and issuance of information in a manner to be accessible and usable by general public.
5. "Information Request Form" is a printed valuable paper which is made available to the information requesting party to write their request for information in accordance with the provisions of law.
6. "Organizations" include ministries and independent directorates and commissions, judicial entities and National Assembly, local administrations, provincial councils, district councils, community councils, municipalities and their meetings, enterprises, government companies and public – private partnerships, and other government institutions.
7. "Civil Society" means forums; councils; unions; associations; and social, economic, cultural and legal organizations established in accordance with the provisions of law.

Provision of Information

Article 4

Organizations shall make information available to the requesters and the general public, in accordance with the provisions of this law.

Chapter 2

Method of Access to Information

Right to Information

Article 5

The information requesting party has the right to information held by organizations, provided that obtaining of such information shall serve a right or bring ease to performing of the relevant duties.

Request for Information

Article 6

1. In order to obtain information, the information requesting party may refer to the appropriate unit of the concerned body and fill-in the Information Request Form.
2. Organizations shall respond to the information request in writing.

Timeline for Responding to Request

Article 7

1. Organizations shall make the requested information available to the requester in no longer than 15 work days from the date the information request form is received. If reasonable excuses exist, the abovementioned timeline may be extended by three work days.
2. Organizations shall make the requested information available to media outlets in no longer than 48 hours from the date the information request form is received.

Expenses

Article 8

1. If provision of the requested information requires expenses, the requester shall incur the expenses, or the request will be rejected.
2. The amount of expenses for requested information and their payment method shall be regulated by a separate procedure prepared by the concerned organizations and approved by Access to Information Oversight Commission.

Information Delivery Methods

Article 9

1. The information requested shall be delivered by one of the following methods:
 - a. Copy the original document
 - b. Take notes from the original document using appropriate tools, by the requester
 - c. Copy the original in writing or obtain audiovisual copy
 - d. Obtain information in audio or visual format
2. Organizations shall deliver the information requested by one of the methods listed in paragraph (1) of this Article, provided that the original version is not damaged.

Acquisition of Information through Interview

Article 10

Acquisition of information through interviewing of government officials and authorities by journalists shall not be subject to the provisions of Articles 7, 8 and 9 of this law.

Chapter 3

Dissemination of Information

Establishment of Information Office

Article 11

1. In order to ensure public's right to information, information office shall be established in organizations.
2. The information office shall make available identity and specifications of employees to public for their information.
3. Officials of organizations in which information office is not established shall take necessary measures to ensure public' right to information.

Duties of Information Office

Article 12

1. Information office shall have the following duties:
 - a. Receive information request form.
 - b. Explain the information request form to the requester as per the provisions of this law.
 - c. Submit the information request form to the relevant section for the purpose of provision of information.
 - d. Get back the form stipulated in section (c) of this Article and submit it to the requester.
 - e. Cooperate with the staff of the concerned section in preparing the information in the manner requested.
 - f. Ensure that information is provided in accordance with the provisions of this law.
 - g. Publish information in the website of the organization and other mass media.
 - h. Perform other tasks as assigned to it by the relevant authority for improvement of dissemination of information.
2. If the information requesting party is not satisfied with the information provided, they can file their complaint, in writing, to the concerned information office.
3. The information office is obliged to scrutinize the complaint received and take appropriate measure in accordance with the provisions of this law to redress it.

Refusal of Information Request Form

Article 13

If the information request form is not submitted in conformity with the provisions of this law, the information office shall refuse it in writing stating the reasons for refusal.

Information about Third Party

Article 14

1. If the information requested is about a third party, or involves their interest, the information office shall officially notify the third party in writing.
2. The third party as stipulated in section (1) of this Article shall be obliged to take a decision within 7 work days or the information office will share the requested information with the requester.

Duty to Publish

Article 15

Organizations have an obligation to publish the following information at least once per year:

1. Structure, duties and authorities of the organization and activity report.
2. Financial status of the organization.
3. Details of services directly delivered to the public.
4. Method of directly addressing information requests and complaints of the public.
5. Summary of the requests for information, complaints and responding to them.
6. Relevant legislative documents.
7. Relevant bylaws, procedures and guidelines.
8. Contracts, protocols and memorandums of understanding both local and international.
9. Relevant policy, strategy and action plans.
10. Other information as deemed fit by the organization.

Organizations have an obligation to develop databases to make sure records and information are maintained and presented for requesters effectively.

Disclosure of the Source of Information

Article 16

The information office shall not be obliged to disclose the source of information unless a competent court prescribes otherwise.

Sanctions

Article 17

1. Dissemination of information shall be banned if such an act:
 - a. Violates the human rights of Afghan citizens;

- b. Poses threat to the life, property, prestige or dignity of a person;
 - c. Impedes detection or prevention of crime;
 - d. Interferes with the process of detection, investigation, and prosecution of the accused or adoption of precautionary measures in that regard;
 - e. Disrupts the process of fair trial or implementation of the verdict;
 - f. Results in ceasing of political, economic or cultural relations of Afghanistan with other countries;
 - g. Jeopardizes the independence, national sovereignty and territorial integrity of the country;
 - h. Encroaches upon a person's privacy;
 - i. Involves an impartial third party; and
 - j. Results in disclosure of confidential business secrets.
2. The following circumstances are exceptions to clauses (h, i and j) of section (1) of this Article:
- a. If the competent court prescribes that personal information be disclosed;
 - b. If the third party consents, in writing, to disclosure of the information in question;
 - c. If the requester is the agent, heir or executor of the deceased third party;
 - d. If the third party is a government official and the information (requested) is about his/her performance.
 - e. If the information is obtained through third party and submission of the same is not prosecutable for others.
 - f. If it violates copyright law and competition law or other legislative instruments.

Chapter 4

Access to Information Oversight Commission

Formation

Article 18

1. For the purpose of achieving the objectives enshrined in this law, Access to Information Oversight Commission, hereinafter referred to as "the commission" shall be established in central level with the following composition:

- a. Authorized representative of Ministry of Information and Culture;
 - b. Authorized representative of Ministry of Foreign Affairs;
 - c. Authorized representative of Ministry of Communication and Information Technology;
 - d. Authorized representative of Afghanistan Independent Human Rights Commission;
 - e. Authorized representative of National Department of Security;
 - f. Two elected representatives from civil society, taking gender into account;
 - g. Two elected representatives from journalists' union, taking gender into account;
2. Provincial commissions shall be established and comprised of authorized representatives of the relevant second degree organizations, taking into consideration the composition stipulated in section (1) of this Article.
 3. Members of commissions stipulated in paragraphs (1 and 2) of this Article shall be appointed for three years. Their appointment for one more term shall be permissible.
 4. Commissions stipulated in paragraphs (1 and 2) of this Article shall, in their first meeting, select their chairperson, vice-chairperson and secretary for a period of one year. Their selection for one more term shall be permissible.
 5. The activities of the commission shall be regulated by a procedure developed by the commission.

Qualifications for Membership in the Commission

Article 19

Members of the commission shall have the following qualifications:

1. Shall be Afghan citizen.
2. Shall be (no less than) thirty five years old.
3. Shall not be a member of any political party during his/her term of duty as member of the commission.
4. Shall be holder of bachelor's degree, at a minimum.
5. Shall not have been convicted, by a court, for crimes against humanity, crimes, or deprivation of civil rights.
6. Shall have (at a minimum) five year relevant experience.

Circumstances that Result in Losing Membership

Article 20

1. Member of the commission loses his/her membership in the following circumstances:
 - a. Written resignation from office duty as member of the commission, after approval of the members and endorsement by the chairperson.

- b. Termination by official employer.
 - c. Becoming sick with severe illness impeding performance of duty.
 - d. Providing false information about meeting qualification requirement.
 - e. Absence in four consecutive meetings without reasonable justifications.
2. If the member of the commission loses membership due to any of the circumstances stipulated in paragraph (1) of this Article, the concerned organization shall introduce another eligible person to replace him/her.

Duties of the Commission

Article 21

The commission shall have the following duties and powers:

1. Monitor the process of requesters obtaining information from government organizations.
2. Handle complaints of information requesting parties.
3. Request documents and evidence from information offices of organizations, if needed.
4. Give necessary advices to information requesting parties and organizations.
5. Evaluate the reports of information offices.
6. Approve bylaws and procedures related to information.
7. Promote culture of dissemination of information through conducting training programs.
8. Publish the decisions of the commission for information of public.
9. Present annual report of activities of the commission to the President and National Assembly, and publishing of the same.
10. Monitor implementation of the provisions of this law.
11. Perform other duties stipulated in this law.

Meetings of the Commission

Article 22

1. Regular meetings of the commission shall be held in every 15 days, and extraordinary meetings may be convened upon the request of the chairperson or proposal of one third of members.
2. Decisions of the commission shall be adopted by affirmative vote of the majority of present members. In case of tie vote, the vote of the chairperson shall determine the majority.
3. The method meetings are convened shall be determined by separate regulation.

Timeline for Reporting of Provincial Commissions

Article 23

1. Information offices are obliged to present their reports to the relevant commissions on monthly basis.
2. Provincial commissions are obliged to submit their activity reports to the central commission on quarterly basis.

Limitations

Article 24

1. Chairperson and members of the commission may not participate in decision making meetings where member of the commission has a stake.
2. The chairperson and members of the commission may not, during their office duty and after quitting it, disclose or otherwise utilize for their personal interest or the interest of their relatives the information they have obtained the disclosing of which is banned by this law.

Implementing the Decisions of the Commission

Article 25

The decisions of the commission shall be final and binding upon impartation.

Secretariat

Article 26

1. The administrative and executive affairs of the commission shall be advanced in the center by Ministry of Information and Culture and in provinces by Directorates of Information and Culture.
2. Chairperson and members of the commission in the center and provinces shall be entitled to allowance the amount of which shall be proposed by Ministry of Information and Culture and endorsed by the President.

3. The allowance stipulated in paragraph (2) of this Article shall be paid from budget of Ministry of Information and Culture.

Chapter 5 Complaints

Complaints of Requesters

Article 27

1. Information requesting party may, in accordance with the provisions of this law, file complaint to the commission.
2. The commission is obliged to scrutinize the complaint within 10 work days of its receipt.
3. The method of scrutiny of the relevant complaints, documents and evidence shall be regulated by procedure developed by the central commission.
4. The provincial commissions shall scrutinize the complaints, documents and evidence in accordance with the procedure stipulated in paragraph (3) of this Article.

Infringement and Disciplinary Measures

Article 28

1. The following are considered violation of the provisions of this law:
 - a. Provide information to the requester contrary to the specifications mentioned in the information request form.
 - b. Refuse to share information with the requester without reasonable justification.
 - c. Provide false information to the commission.
 - d. Failure to provide information within the specified timeline.
 - e. Failure to observe the decisions and procedures of the commission.
 - f. Failure of the information office to report to the commission in due course.
2. As soon as a violation of the provision stipulated in Article 17 (1) of this law is noticed, the commission shall prescribe one of the following disciplinary actions depending on the circumstances.
 - a. Advice
 - b. Written warning
 - c. Propose salary cuts to the employer in accordance with the provisions of law.

Punishment

Article 29

If a person fails to observe the provisions stipulated in (various clauses of) Article 17 (1) of this law, he/she shall be sentenced to one of the following punishments, as the case may be:

1. For violation of the provisions stipulated in clauses (a and d), the perpetrator shall be sentenced to cash fine up to one hundred thousand (100,000) AFN.
2. For violation of the provisions stipulated in clauses (b and h), the perpetrator shall be punished based on the provisions of the Penal Code.
3. For violation of the provisions stipulated in clauses (c and e), the perpetrator shall be sentenced to cash fine from fifty thousand (50,000) AFN up to one hundred thousand (100,000) AFN.
4. For violation of the provisions stipulated in clauses (f, i and j), the perpetrator shall be sentenced to cash fine from one hundred thousand (100,000) AFN up to two hundred thousand (200,000) AFN.
5. For violation of the provision stipulated in clause (g), the perpetrator shall be sentenced to cash fine from two hundred thousand (200,000) AFN up to three hundred thousand (300,000) AFN.

Prosecution

Article 30

If the chairperson or members of the commission violate the provisions stipulated in Article 24 of this law, they shall be prosecuted in accordance with the provisions of law.

Chapter 6

Miscellaneous Provisions

The Price of Information Request Form

Article 31

The format and content of information request form shall be developed by Ministry of Information and Culture, and printed by relevant branch of Ministry of Finance, and shall be put at public disposal at the cost of 100 AFN (per copy).

Overriding Rule

Article 32

If any provision of this law contradicts with provisions of other legal instruments, the provisions of this law shall prevail.

Monetary Deposits

Article 33

The money earned as a result of implementation of the provisions of this law shall be deposited in the government incoming bank account.

Enactment of Bylaws, Procedures and Guidelines

Article 34

The commission stipulated in Article 18 (1) of this law may, for the purpose of better implementation of the provisions of this law, enact separate bylaws, procedures and guidelines.

Entry into Force

Article 35

This law shall enter into force from the date of publishing in the Official Gazette.

Information Request Form

Part 1 (to be filled by the requester)

1. Requester's complete name (real or legal persons):

(Office stamp)

2. Father's name (only for real persons):

3. Designation and location

4. Tazkira or passport number:

5. Address:

6. Phone number:

7. Email

8. Information required by requester

9. Timeline for responding to the request: up to 48 hours ()

Up to 15 word days (), in case of extension () days

10. Signature or thumb impression of the requester () stamp of the legal person requester

Part 2: (to be completed by information office)

1. Complete name of the person receiving the form:

Designation:

Form receipt date:

Signature of the receiver: ()

Full refusal of the request: ()

2. Legitimate reasons for refusing the request:

3. Refusal of certain parts of the request: ()

4. Legitimate reasons for refusing certain parts of the request:

5. Does it entail cost? Yes (), No ()

- It will cost () AFN which will be deposited to De Afghanistan Bank account.

- Making sure, by ways of receiving bank deposit slip, that the mentioned money is deposited:

The money has been deposited in the bank ())

The money has not been deposited in the bank ())

- Should the requester fail to incur the cost of information, the request shall be deemed refused.

6. Extension of timeline: Does the information delivery require an extension of the timeline?

Yes () No ())

- If the timeline is extended, please explain the reasons:

7. Name of the authorized official who has approved the information request or refused it in part or in full:

Designation:

Signature:

