

## Access to information Final Draft law

December 2013 submitted to the president office

### Chapter 1 – General provisions

#### **Article 1:** Definitions

For the purpose of applying the provision of this law the following words and phrases have the following meanings unless the context indicates otherwise:

The Country: the state of Palestine

The commission: the general commission of information

The commissioner: the Commissioner-General of Information

The institution: Any ministry or body or a public institution or a company that operates a public facility or a local body or a legislative or judicial or executive or supervisory insitution, or public prosecutor or public companies or any other party that the Commissioner General considers as a an institution for the purposes of the implementation of this law.

The competent employee: the assigned employee by the public institution to look into the requests of information.

Information: Data and existing data or saved by any means, whether records or documents written and preserved electronically, or graphics, or maps, or tables, or images, or movies, or microfilm, or audio recordings, or videos, or graphics, or any data read on special equipment, or other forms of information that the Commissioner-General sees it within the scope of the information in accordance with this law.

Publishing: enabling the access in an easy form and style to the public, which includes printing, radio and electronic communication messages or other modes of access, or those known to be known in the future.

#### **Article 2:** Aim of this law: this law aims to achieve the following:

1. Enable persons to exercise their right of access to information held by public institutions, in accordance with the provisions of this Law.
2. Organize and activate the free flow of information according to this law's provisions
3. strengthen transparency and accountability in institutions

**Article 3:** Absolute discloser of information: All information shall be deemed accessible unless exempt in the provisions of this Law.

**Article 4:** Competent employee – the institution needs to appoint a competent staff to look into the requests for access to information, provide him with the required powers to search and access the information, and undertake necessary training to carry out his job.

**Article 5:** Information Management and Storage –Institutions shall manage and store information in their possession in an orderly manner to facilitate information retrieval, and shall store information electronically whenever possible.

## **Chapter 2 – Principals of the right to access of Information**

**Article 6:** Duty to publish

The institutions need to publish yearly reports that include the following:

1. Administrative and financial information about the mechanism of action of the institution that includes the expenditure, goals, audited accounts, budgets, work procedures and the relationship with the audience beneficiaries, and the achievements and obstacles
2. The yearly reports need to include at least the following information
  - a. Administrative information about the mechanism of action of the institutions that includes the expenditure, the aims' the decisions, accomplishment, and difficulties that encountered the course of work and the auditing.
  - b. General policy and special projects of the institution that has been implemented and which have not been implemented and the reasons for non-implementation
  - c. Any other information that the commissioner find important to publish.

**Article 7:** publishing the industrial institution's reports

Industrial institutions, public and private, to publish semi-annual reports showing by at least the following information:

1. The location (s), nature and danger of toxic substances utilized.
2. The amount of emissions from manufacturing
3. Means of waste disposal.

**Article 8:** Opening the general meetings to the public

When an institutions sets its public meetings to the public it needs to announce the date and place of this meeting and its purpose, and the public should not be prevented from attending this meeting, the public may not be prohibited from attending these meetings, except in cases stipulated under this Law.

**Article 9:** Protection of Informant

1. The assigned employee who informs the commissioner of irregularities or breaches of the law needs to be protected, and shall not be subjected to an investigation or held accountable or any punishment personal or functional.
2. The commissioner would issue the proper instruction on how to protect the informant who is working in good well.

**Article 10:** The protection of journalist's sources

Journalists' information sources may not be disclosed unless the sources wish to be identified, or in cases where a court orders source disclosure to prevent a criminal offense or if the court has available data to indicate that the journalist got this information in a manner contrary to the law, and in this case, the source of information is allowed to require the court to keep his name secret.

**Article 11:** The responsibility of publishing secret information

A person who obtains information legally classified as confidential is not liable to prosecution on condition that the information is not obtained by that person acting in an ex officio capacity or in another illegal manner, and that the public is granted access to the information in question.

### **Chapter 3: Information Requests**

#### **Article 12: Submission of Request**

Requests to access information shall be submitted in writing to the specialized public Informant either in person or via electronic mail according to the template prepared for this purpose with a clear identification of the information required.

#### **Article 13: Notification of Receipt of Request**

Upon receiving the request, the competent employee shall immediately notify the requesting party of the date of receipt of the request, the type of information requested, and the time required responding to the request according to the pre prepared template for such a notification.

#### **Article 14: Response to Request**

1. The competent employee shall respond to each request within 7 days of receipt, a timeframe that may be prolonged by a maximum 7 more days.
2. If the request entails the retrieval of a large amount of information, or if access to the information involves consultation with a third party or another public institution the first period may be extended for an additional seven days.
3. Non response within the assigned periods in Para (1) and (2) of this article shall be considered a rejection of the request for the purpose of appeal.

#### **Article 15: Request Approval**

1. The informant should abide to enable the access to information requested by the applicant
2. The informant should abide to enable the applicant to receive part of the requested information, if the request requires more than one kind of information and part of it falls within the exceptions set out in this law.

#### **Article 16: Submission of Information**

1. The informant should abide to provide a copy of the required information according to the version that the institution has.
2. Ministerial council will issue a system that defines how the requesting party can obtain a copy of the required information including people with special needs.

#### **Article 17: Referrals of Requests to another Institution**

1. The competent employee (informant) should with the prior agreement of the requesting party, refer a request to another institution if he finds that the other institutions has the information in a more detailed way, or that it has a n alternative version of the information if the applicant is with special needs, as long as the referral is in accordance with the time frame set in Para. (1) of article 13 of this law.
2. The validity of the time frame set in article 13 of this act starts on the day of the referral of the request to the other institute.

#### **Article 18: Rejection of Request**

The informant rejects the request for information in any of the following cases:

1. The institution doesn't possess the requested information.
2. The requested information is subject to the access restrictions imposed under this Law
3. The rejection of the request needs to be in writing and explained and delivered to the applicant within the time frame specified in article 13 of this act.

#### **Chapter 4: Exceptions**

##### **Article 19: National security and public order**

The competent employee (informant) needs to refuse to release any information whose disclosure risks endangering the defense capabilities and national security of the State.

This includes:

1. Weapons, tactics, strategies and military forces, as well as military operations which aim to protect the homeland.
2. Intelligence information utilized, in accordance with the applicable laws, to thwart any act of aggression or crime that endangers the internal and/or external security of the State.
3. International communications, correspondence and treaties related to defense matters and military alliances.

##### **Article 20: Information about a Foreign Party**

The competent employee shall refuse to disclose any information concerning a foreign State or organization with which an agreement has been concluded to keep this information confidential, provided that the employee can prove the existence of such an agreement.

##### **Article 21: Access to Information Over 20 Years Old**

The competent employee shall not refuse to disclose information referred to in Articles (19) and (20) of this Law if it is more than 20 years old and still held by a public institution, except in cases where a decision by the Commissioner General to keep the information confidential for a further fixed time period is justified and adequately explained.

##### **Article 22: Information on Judicial Investigations**

1. Informant in public institutions is responsible for the investigation of crimes and oversight of law enforcement and police action should refuse to disclose information related to the investigation.
2. The public prosecutor may order disclosure of information of investigation of the public prosecution in cases of corruption and public opinion.

##### **Article 23: Economic Security Issues**

The informant should refuse to disclose any information that may risks causing material damage to the economic interests of the State, or undermining its ability to manage the national economy.

##### **Article 24: Commercial, financial and economic Secrets**

The competent employee should refuse to disclose any information of commercial, financial, economic, or industrial as well as scientific research or techniques, that revealing it would lead to the disclosure of reverence of copyright and intellectual property or with legitimate and fair competition that would result in unlawful gain or lost for a person or a company.

**Article 25: Internal Affairs of the Institution**

The competent employee may refuse to disclose any information that relates to the internal affairs of the institution and its staff, including internal orders and preliminary discussions and proposals, as long as they reveal this information upon completion of the decision-making and its release was officially.

**Article 26: Privacy**

The competent employee is prohibited from disclosing any information that includes personal data or information which relates to the private life of individuals, except in the following cases:

1. If connected to a duty or function or public office held by that individual
2. The person concerned agrees to the disclosure.
3. Disclosure is required by court order
4. By judicial decision.

**Chapter 5: Commissioner General of Information**

**Article 27: The commission**

1. It enjoys a legal personality and financial and administrative independence that is required for it to exercise its functions, and special budget should be allocated for it within the general budget of the country.
2. The Office headquarters shall be located in Jerusalem and branches may be established in all Governorates.

**Article 28: Duties of the Commission**

The general commission for information exercises the following tasks:

1. Consider appeals filed in connection with offenses committed contrary to the provisions of this Act
2. Develop, regulate and implement the programmes, plans and policies pertaining to the defense of the right of individuals to access and obtain information
3. Educate and raise public awareness about the importance of the right to access of information.
4. Contribute to the training of public institution employees and officials on the importance and the way to enable individuals to have access to information.
5. Monitor infringements of the right of access to information and publish reports and studies highlighting impediments to the exercise of this right and ways to eliminate them.
6. The preparation of the annual report of the commission.

**Article 29: Appeals**

The Commission will consider appeals submitted to it for any of the following reasons:

1. Rejection of a request for information
2. Subjecting high fee charge for accessing information
3. Extending the period set in Para. 1 of Article 13 of this current law.

**Article 30: Dates of Appeal**

An appeal must be submitted to the commission within 30 days of the rejection of the request  
Or the date of any decision of the institution against which the requesting party wishes to lodge an appeal.

**Article 31: Response to the Appeal**

The commission needs to respond to the appeal within 30 days of the date of the submission of the appeal.

**Article 32: Terms of appointment of the Commissioner**

Whoever is appointed commissioner is required:

1. To be a Palestinian
2. To be qualified and competent
3. Must be at least forty years of age
4. That has not been sentenced by a competent court of a felony or misdemeanor involving moral turpitude or dishonesty

**Article 33: The appointment of the Commissioner**

1. The commissioner shall be appointed by decision of the Council of Ministers for a period of 4 years renewable only once. . The decision will determine the salary and other financial entitlements.
2. The Commissioner must be devoted full-time to the functions of the position and may not simultaneously engage in any other work or hold any other position or function, regardless of whether or not the latter are remunerated.

**Article 34: The expiration of the Commissioner's services**

The services of the Commissioner General will be terminated in the event that:

1. Lost one of the conditions of his appointment
2. Accepted resignation
3. If he is convicted of a crime or wrongdoing involving corrupt or immoral behavior.
4. Death

**Article 35: Duties (Mandate) of the Commissioner**

The commissioner will hold the following duties:

1. Follow-up and make decisions concerning appeals to the general commission, and his decisions are considered binding
2. Recruit staff for the commission according to the special regulations issued by the Council of Ministers.
3. Supervise the work of the General Commission.
4. Prepare the necessary regulations to implement the provisions of this law and submitted to the Cabinet for approval
5. To issue the necessary instructions for the implementation of this law

**Article 36: Powers of the commissioner**

The commissioner has the following powers:

1. The right of access to records, papers and documents which are relevant to the information at any institution
2. Demand the referral to justice of officials responsible for hiding, destroying distorting, changing or adjusting information contrary to its reality, from the specialized authorities.

3. Question directors of institutions for the reasons of concealing information, and if the order came directly from them. If the Commissioner General is not convinced with the reasons given for such orders, he/she may immediately refer the matter in writing to the President of the Authority, the Prime Minister or the Chairman of the Legislative Council for appropriate follow-up.

**Article 37: Submitting yearly reports**

The Commissioner shall submit a yearly report to the Palestinian Legislative Council, the President of the National Authority, and the Prime Minister and publish it, and the reports shall contain:

1. Cases of unjustified refusal to provide
2. Constraints faced in the implementation of his duties
3. Any other recommendations the commissioner sees fit to add.

**Chapter 6 – Fees**

**Article 38: Access to information Application fees**

1. Fees for access to information requests or for appeals related to it may not be impose.
2. The applicant will bear the Costs and expenses for the actual process of photocopying, according to market value

**Chapter 7 – Final provisions**

**Article 39: penalties**

1. Without prejudice to any severer penalty contained in any other acts, is punishable by a fine of not less than \_\_\_\_\_ and not more than \_\_\_\_\_, for whoever declined to provide the information requested or submitted incomplete, or reveal information relating to the privacy of individuals in cases other than those stipulated in this Act.
2. In addition to any other penalties stated in any other law, the penalty of a fine will not be less than \_\_\_\_\_ and not more than \_\_\_\_\_ will be imposed on:
  - a. Provided information false information
  - b. Intentionally destroyed records or books that contain the information
  - c. Reveled restricted information in bad faith, as set in this law.
3. Without prejudice to any severer penalty contained in any other law, punishable by a fine not less than \_\_\_\_ and not more than \_\_\_\_\_, anyone who violates any other provision of this act
4. Despite of what any other law states, it is not allowed to punish anyone with imprisonment if his access and publish of the information was with the aim of public access to information of public interest proved false, and it imposes monetary fines as stipulated in the law.

**Article 40: executive regulations**

The ministerial council shall issue the necessary regulations to implement this law.

**Article 41: Cancellation**

Any provision that is inconsistent with the provisions of this Law will be revoked.

**Article 42: Enforcement, Execution and Publication**

All competent authorities, each one within its respective sphere of jurisdiction, shall implement the provisions of this Law, which will enter into force one year after its publication.