

Right to Information Law (DRAFT)

(The Pyidaungsu Htuttaw Law No.---)

Day, Month, 1378 ME

(Day, Month, 2016)

The Pyidaungsu Hluttaw hereby enacts this law.

Chapter 1

Title and Definitions

1. This law shall be called the Right to Information Law.
2. The following expressions contained in this law shall have the meanings given hereunder:
 - (a) **Information** means a material to be able to understand the meaning of a subject. It is not only a hand-writing, print letter, sound, a thing created by electronic or by other techniques, or obvious things whether they are similar or dissimilar, but also the things or documents to be able to understand the words or ideas through pictures or figures or other ways.
 - (b) **Information Officer** means an appointed person to perform duties prescribed by this law.
 - (c) **Public Body** means any of the offices, departments or organizations which are using public funds fully or partially.
 - (d) **Publish** means an undertaking to access information to people in some way. It included printing, TV and radio broadcasting and electronic forms of dissemination;

- (e) **Record** means paper document, file or specific thing which contains information.
- (f) **Requester** means anyone who request to access information under this law.
- (g) **Third Party** means a person other than the person making a request for information or a public body;
- (h) **Vexatious Request** means the same requester requests the very similar information that he already asked for and the request has been granted under this law or it is reasonable that the purpose of the requester is to create difficulties to the public body rather than to access information.

Chapter 2

Objectives

- 3. The objectives of this law are as follows:
 - (a) To grant the right to access information that the public should know which are in hands of the public bodies,
 - (b) To promote accountability, responsibility and good governance,
 - (c) To access the right to information in a faster way.

Chapter 3

Right to Information

- 4. A citizen has the right to access information or a record from public body only under this law, by-law and rules and regulations.

5. Except under this law, however the other laws prescribed, any requester (to access information) shall not be denied the right to access information that public should know from the public body.
6. As this law is to enact the minimum standards of right to information, any article in this law shall not be assumed to restrict the disclosure of information in accordance with the other laws, policies and procedures.

Chapter 4

Duties and Responsibilities of Public Body

7.
 - (a) Each public body shall appoint an Information Officer within 120 days of the enforcement of this law.
 - (b) If the Information Officer cannot be appointed, the responsible person of that public body shall be regarded as the Information Officer.
 - (c) The Information Officer shall be responsible to accept and undertake the request to access information which is in line with this law. Moreover, he is also responsible to persuade the public body to fully cooperate with him in carrying out his duties under this law.
8. Public body shall keep the records systematically in line with security standards in order to undertake the duties and responsibilities in this law.
9.
 - (a) Public body shall issue the up-to-date information and the following information in feasible ways including electronic technology, with relevant restriction depending on the information sources.

- (1) Laws, rules, notifications, orders having the force of law, regulations and manuals related to the duties and responsibilities,
- (2) Information related to organization, functions and services,
- (3) Staff guidebooks on duties and responsibilities, salary, travel allowance and benefits,
- (4) Norms and criteria that must be followed by the staff including rules, manuals or policies,
- (5) Facts related to the opportunities to be able to discuss suggestions, decisions and decision-making processes,
- (6) Public policies and decisions that are to be implemented or promulgated, facts and background information related with those public policies,
- (7) Budget income and expenditure,
- (8) List of assistance or financial support programmes being run by the public body, including the amount of money or assistance received and the detailed list of people who want the assistance,
- (9) List of people who receive the assistance, contracts permits, special assistance, which are allowed, approvals,
- (10) Types of information that are in hand,
- (11) The description of procedure in requesting information including the name, position and contact details of the Information Officer.
- (12) Other specified information.

- (b) In carrying out duties under this law, a detailed record has to be kept on progress of work, detailed list of requests to access the information and how the requests have been granted.
10. (a) The requester can complain to the Union Government and respective government bodies if his request was not granted under this law. But the complaint (letter) cannot be submitted by his representative.
- (b) The Union Government and government bodies concerned shall accept and coordinate on the complaint of access to information in relations with one of their public bodies.
 - (c) The Union Government and government bodies concerned shall resolve the complaint within 60 days.
 - (d) The claimant can prosecute at respective Court if he is not satisfied with the decision of the Union Government and government bodies concerned.

Chapter 5

Requesting Information

11. A citizen can request information from public body.
12. (a) An information request to public body can be made in easy ways including delivering the request personally , by post, by fax or by electronically such as email.
- (b) Upon receiving the information request made in accordance to Section 12 (a), the public body shall issue the letter to the requester acknowledging the date of receipt and name of the Officer as soon as possible – within 3 working days.

13. Public body shall indicate the respective organization where the information requested can be available when it is not available or not relevant to that public body. If it is not aware of another public body, it shall inform the requester of this.
14. (a) Under this law, if the current news and information, which are to be replied due to emergencies, are requested, public body shall reply as early as possible – within 24 working hours, and shall reply within 15 working days to the requests which require a search into the facts, records, statistics of the past.
- (b) If the information requested requires a search into many records from other organizations, and requires more discussions, the duration to reply can be further extended to an additional 15 working days maximum. In this case, the Information Officer shall inform the requester the reasons and time of delay before the preliminary 15 working days.
15. Public body shall carry out the following upon request for information–
 - (a) Making payment of the actual cost by the requester if there is any cost in finding and sending the information requested,
 - (b) Declining the entire or part of the request if the information is in exemption of this law,
 - (c) Declining a request which is considered vexatious,
 - (d) Declining a request which is not made in accordance with the law,
 - (e) Declining a request if it was already published in some way and easily accessible, and to provide the requester with information as to where it can be accessed.
16. When a requester demands to have the information in his preferred way, it is allowed to do so if there is no reason to intentionally disturb the duties and responsibilities of public body or damage the records.

17. The actual cost in finding and sending the information to a requester can be charged. But it must be in line with the financial rules of the Union Government.

Chapter 6

Exemption

18. Public body can decline the information request on the following issues:

- (a) The disclosure of information would cause harm to national security,
- (b) The disclosure of information would cause harm to the relationship with other countries or international organizations,
- (c) The disclosure of information –
 - (1) Result in the commission of an offence;
 - (2) Disturbs the investigation, interrogation, inspection, or prosecution or arrest of a perpetrator in a criminal case, or the prevention of a crime occurring
 - (3) Leaks confidential source of information,
 - (4) Facilitates an escape from legal custody,
 - (5) Harms the security of any property or a system including a building, a vehicle, a computer system or a communication system.
- (d) The disclosure of information –
 - (1) Causes economic loss over amendment or withdrawal of an economic management agreement on tax, revenue, interest

rate, exchange rate, untimely disclosure of (economic) activity being proposed,

- (2) Damages the legal financial interest of public body due to giving irrelevant opportunities to someone who seeks the connection with public body for an (economic) activity or disclosing information to someone who is competing with public body,
 - (e) By disclosing information, there occurs disruption to the deliberative process of public body, or harms the success of policy, investigation or inspection procedure due to untimely disclosure of this information.
 - (f) The disclosure of information unreasonably encroaches the freedom of a third party who is a prominent person.
- However, the exemption shall not be applied under the following conditions –
- (1) The third party already gives his consent to disclose the information,
 - (2) The third party died over 20 years ago,
 - (3) The requester is the custodian or relative or legal heir of the third party,
 - (4) The third party is or was the official of public body, and the information is related to his work.
 - (g) If a person, who has been granted with special right, does not give up his right, the information cannot be disclosed in the trial.
 - (h) The disclosure of information –
 - (1) Breaches trust by disclosing confidential trade information from a third party,

- (2) Has confidential trade information or damages the trade or financial interest of the third party if the information is disclosed although the information has been received from the third party under confidential manner.

19. If the request to information is related to the information (which was) confidentially sent by a third party, the public body shall put utmost efforts to communicate with that third party in order to get permission or objection (from him). If the third party is against the disclosure of information, his objection must be taken into consideration. However, the decision must be made based on rational thinking of the public body whether that information falls under the exemptions or not.

20. Even a definition or an elaboration on an exemption of this law shall have no effect to exemptions (sections on confidentiality) in other laws.

21. If the information is assumed that it does not fall under the exemptions in this law, this assumption shall always be made with rational thinking when the information is requested.

22. If a part of a record falls under one of the exemptions, the rest of the record except that part shall be allowed to access.

23. The exemptions under Section 18, Sub-section (a) to (f), shall be terminated after twenty years later. However, those (sections) can be further extended to maximum 15 years with the approval of Union government.

Chapter 7

Prohibitions

24. No one, without valid reason, is allowed to decline, procrastinate, ban the application of the rights stated in this law.

25. No one is allowed to disturb, prohibit, threaten, and force the undertaking of a public body under this law.

26. No one is allowed to destroy any record of a public body in any way without permission.

Chapter 8

Offences and Penalties

27. Anyone who violates the prohibition as provided in Section 24, Section 25 shall be charged from minimum thirty thousand kyats to maximum three hundred thousand kyats.

28. Anyone who violates the prohibition as provided in Section 26 shall be charged from minimum fifty thousand kyats to maximum fifty hundred thousand kyats.

Chapter 9

Miscellaneous

29. No one is allowed to be prosecuted while carrying out the duty with goodwill or carrying out duties in accordance with this law.

30. The Union Government may issue rules, regulations, notifications, orders, directives and procedures to enforce this law.

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Signed by
President

The Republic of the Union of Myanmar