

**Draft Resolution of the President**  
**On the Bill on Public Information Management and**  
**Proactive Disclosure**

In the name of the people,

The President of the Republic,

Taking into account:

The Constitution;

The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

Law no. 189/1958 on the obligation of public institutions, companies and societies to submit data on employees;

Law no. 35/1960 concerning statistics and census;

Law no. 87/1960 concerning public mobilization and amended Laws;

Law no. 137/1963 concerning enumeration of competencies, educational qualifications and inventions;

Law no. 121/1975 concerning maintenance of State official documents and regulation of the means of their publication;

Decree of the President of the Republic No. 2915/1964 concerning the establishment and organization of the Central Agency for Public Mobilization and Statistics;

Decree of the President of the Republic No. 627/1981 concerning the establishment of information and documentation centers in the State administrative authorities and public authorities and their competences;

Following the approval of the Cabinet,

According to what has been deemed appropriate by the State Council,

**Has Decided**

The following bill shall be put before the People's Assembly and the Shura Council:

**Article (1)**

The provisions of the attached Law regulating Public Information Management and Proactive Disclosure shall be binding on the bodies falling within its ambit.

**Article (2)**

The Prime Minister shall be responsible for the application of this Law. The Prime Minister shall issue executive implementing regulations within 90 days of the date of its coming into force.

### **Article (3)**

Any provision in any other law which runs contrary to or conflicts with the provisions of this Law shall, to the extent of the conflict, hereby be repealed. Articles (10) and (15) of the Decree of the President of the Republic No. 2915/1964 concerning the establishment and organization of the Central Agency for Public Mobilization and Statistics are hereby repealed.<sup>1</sup>

### **Article (4)**

This Law shall be published in the Official Gazette and shall come into effect 30 days after such publication. The Law shall be stamped with the official seal of the State and implemented as one of its Laws.

### **Article (5)**

The Government will adopt a right to information law to complement this law, providing for a right of individuals to request and receive information from public bodies, within three years of this law coming into effect.

# **Bill Regulating Public Information Management and Proactive Disclosure**

## **Chapter One: Definitions and Objectives**

### **Article (1)**

For purposes of application of the provisions of this Law, the terms below shall be defined as follows:

- a - Information: Material which communicates something and which is held in any recorded format, including in print, electronically, samples, models, audio or visual tapes, or any other format.
- b - Information of a Personal Nature: Information relating to a human being where that individual can be identified from the information, and in relation to which the individual in question has a reasonable expectation of privacy.
- c - Committee: The Information Management and Disclosure Committee established by Article 16 of this Law.
- d - Record: Recorded information, regardless of the format in which it is stored, or its source, date of creation or official status, and whether or not it was created by the body which holds it.
- e - Public Body: Any body where the government is represented; which is established by the Constitution or a law; which is a government department or which forms part of any level or branch of government; or which is owned, controlled or primarily financed by a fund controlled by the government or the State.

### **Article (2)**

The objectives of this Law are as follows:

- a - To establish standards and systems to ensure the proper management, by public bodies, of the information they hold in accordance with modern record management practices and taking into account modern technology.
- b - To establish mechanisms and procedures to promote the proactive disclosure of information by public bodies with a view to contributing to the fulfillment of the needs of society to solve economic and social problems; to meet the requirements of planning and development; to promote open, accountable and effective government; and to encourage participation in governance.
- c - To achieve the objectives of Sub-articles (1) and (2) without placing an unreasonable burden on public bodies, and while protecting overriding public and private interests and rights.

## **Chapter Two: Record Management**

### **Article (3)**

- 1) The Committee shall develop a Code of Record Management setting out better practice standards regarding the keeping, management and disposal of records by public bodies.
- 2) The Code provided for in Sub-article (1) shall address the following issues:
  - a - The necessary resources and internal systems to be developed in relation to record management, including in relation to staff training and skills.
  - b - The need for records to be accurate and authentic.
  - c - Rules regarding the development of metadata (information about the records held) to ensure appropriate knowledge about what information is held and to facilitate the efficient operation of the record management system.
  - d - Record-keeping systems, including referencing, titling and indexing rules, which facilitate the quick and easy retrieval of information by those who need to use it.
  - e - Record-storage systems and the need to prevent damage to records, to ensure safety, including by meeting fire regulations, and to protect against unauthorized access, while still maintaining the accessibility of records.
  - f - Record-disposal, either through transfer to the archives<sup>2</sup> or through destruction, in accordance with a clear and written policy adopted by each public body.
  - g - Specific issues in relation to the handling of electronic records, including metadata, security, organizational systems, appropriate cross-referencing with paper counterparts, and data integrity over time.
- 3) The Committee shall review the Code from time-to-time and at least once every three years to ensure that it takes into account better practices in this area, as well as changes in the nature of the records held by public bodies.

### **Article (4)**

- 1) The Committee shall, on an annual basis, set minimum standards which public bodies are required to attain in terms of record management, based on the Code of Record Management, and public bodies shall have one year to bring their record management into compliance with those standards.

- 2) When discharging its obligations under Sub-article (1), the Committee may set different standards for different public bodies, or different classes of public bodies, based on their capacity or record management challenges.
- 3) Within seven years of this Law coming into force, all public bodies are required to meet all of the standards in the Code of Record Management.

## **Chapter Three: Proactive or Routine Disclosure**

### **Article (5)**

The following information relating to a public body is, pursuant to this Law, subject to proactive disclosure:

- a - Particulars regarding its organizational structure, functions and duties, as well as its policies, performance and quality indicators, and other key organizational documents.
- b - All relevant facts concerning important decisions and policies which affect the public, not later than the time at which these decisions and policies are made public.
- c - The procedure followed in decision making processes, including channels of supervision and accountability.
- d - A directory of its senior officers and employees, their powers and duties and the remuneration they receive.
- e - The rules, regulations, instructions and manuals held by it or used by its employees for discharging their functions.
- f - A description of the services it provides to the public and any public subsidy programs, as well as a list of the beneficiaries of such services and programs.
- g - The reasons for any administrative or quasi-judicial decisions, in a form which is accessible to those affected by those decisions.
- h - Any public consultation opportunities or mechanisms and any complaints mechanisms available to the public.
- i - Information about government programs and works, annual budget appropriations and a breakdown of expenditure, including procurement, funds allocated and actual disbursements, and the results of public tenders.
- j - A statement of the categories of information that are held by it, indicating which records are available electronically.
- k - The names, designations, contact details and other relevant particulars of the Information and Documentation Centers or Information Officers, as the case may be.
- l - Such other information as may be prescribed.

#### **Article (6)**

- 1) The Committee shall develop a Publication Scheme, or different Publication Schemes for different classes of public bodies, setting out the specific information public bodies are required to make available, taking into account the list of types of information subject to proactive disclosure in Article 5.
- 2) All Publication Schemes developed pursuant to Sub-article (1) shall indicate the manner in which the information they refer to is to be disseminated. All such information shall be required to be disseminated widely and in a form which is easily accessible to the public, and information which is available electronically shall be disseminated over the Internet.
- 3) Information subject to proactive disclosure shall be provided for free. Fees may be charged for the cost of reproduction, as well as for sending the information, in accordance with regulations on this, where specific information has to be physically reproduced to meet a request for it.
- 4) Each public body is required to make the relevant information available in accordance with Sub-article (2) within six months of being notified of a Publication Scheme that is applicable to it.
- 5) The Committee may, from time-to-time, amend the Publication Scheme(s), and the rule set out in Sub-article (4) shall apply to an amended Publication Scheme, once it has been notified to a public body.
- 6) All Publication Schemes issued by the Committee shall themselves be subject to proactive disclosure, including by being made available over the Internet.
- 7) Within seven years of this Law coming into force, all public bodies are required to make publicly available all information subject to proactive disclosure, as provided for in Article 5.

#### **Article (7)**

- 1) Public bodies may redact information from records subject to proactive disclosure where this is necessary to avoid the unreasonable disclosure of personal information concerning a natural third party, or to protect other overriding third party or public interests.
- 2) Where a public body is unclear whether or not information needs to be redacted from a record, the Committee will provide it with advice on the matter.

#### **Article (8)**

Public and private bodies and individuals have the right to further promulgate, through any means, including through the mass media, any information made available on a proactive basis pursuant to this Law.

#### **Article (9)**

Information published on a proactive basis shall be maintained in an up-to-date condition and be updated, as relevant, at least annually.

### **Chapter Four: Enforcement**

#### **Article (10)**

Each public body shall report to the Committee on an annual basis on the measures it has taken to improve its record management systems, including specifically on measures taken to meet the obligations set out in Article 4, and to make information available proactively, including specifically on measures taken to meet the obligations set out in Article 6.

#### **Article (11)**

The Committee shall have the right to monitor public bodies' compliance with their record management obligations and their proactive disclosure obligations. This shall include the power to request relevant information from public bodies and to carry out inspections of public bodies with a view to assessing their compliance.

#### **Article (12)**

- 1) Anyone may lodge a complaint with the Committee alleging that a public body has failed to meet its proactive disclosure obligations.
- 2) The Committee shall respond to any complaint within 30 days, informing the complainant either of the fact that it considers the complaint to be unfounded or of any measures it has taken in relation to the complaint, including through issuing a Practice Recommendation in accordance with Article 13.

#### **Article (13)**

- 1) Where the Committee considers that a public body has failed to meet its record management or proactive disclosure obligations, it may, after consulting with the body, issue a Practice Recommendation setting out the measures it considers necessary to bring the body into compliance with its obligations. A Practice Recommendation shall stipulate the timeframe the body shall have to put in place the measures it mandates.

- 2) Where a public body has been issued with a Practice Recommendation under Sub-article (1), it shall, within one month of the expiry of the timeframe indicated therein, report to the Committee on the measures it has taken to implement the Practice Recommendation.
- 3) Where the Committee is of the view that the measures taken by the public body in response to the Practice Recommendation fail adequately to address the problem, it may take the necessary measures to give legally binding effect to the Practice Recommendation.<sup>3</sup>

## **Chapter Five: Research**

### **Article (14)**

- 1) Public and private bodies have the right to engage freely in field research and other activities to collect data on any matter, and they may publish the results of their work, provided that such publication, to the extent that it involves information of a personal nature, does not breach the legal rights of the subjects of that information.
- 2) The responsibility of the Central Agency for Public Mobilization and Statistics (CAPMAS) for running the national census on behalf of the State, in accordance with Article 6 of the Decree of the President of the Republic No. 2915/1964 concerning the establishment and organization of the Central Agency for Public Mobilization and Statistics shall be without prejudice to the right of private bodies to conduct research, as provided for in Sub-article (1).
- 3) CAMPAS shall act as a central point for collecting and sharing information about major public research and studies, with a view to avoiding unnecessary duplication.

## **Chapter Six: Institutional Measures**

### **Article (15)**

VERSION 1:<sup>4</sup>

- 1) Central responsibility for implementing the obligations provided for in this Law shall, in each public body, be vested in the Information and Documentation Centers established pursuant to Decree of the President of the Republic No. 627/1981 concerning the establishment of information and documentation centers in the State administrative authorities and public authorities and their competences.
- 2) Any public bodies covered by this Law which are not required to appoint Information and Documentation Centers shall instead appoint Information Officers to be responsible for implementation of the obligations provided for in this Law.



- 3) Without prejudice to any other duties they may be assigned, the Information and Documentation Centers referred to in Sub-article (1) and the Information Officers referred to in Sub-article (2) shall have the following duties:
- a - Developing and implementing within the public body record management systems which comply with the requirements of this Law.
  - b - Ensuring that the public body meets its proactive disclosure obligations.
  - c - Responding to requests for information and other information-related queries from the public.<sup>5</sup>
  - d - Preparing the annual report to the Committee, as stipulated in Article 10.
  - e - Cooperating with the Committee in the discharge of its obligations.

**VERSION 2:**

- 1) All public bodies shall appoint Information Officers who shall be given central responsibility for implementing the obligations provided for in this Law.
- 2) Without prejudice to any other duties they may be assigned, the Information Officers referred to in Sub-article (1) shall have the following duties:
- a - Developing and implementing within the public body record management systems which comply with the requirements of this Law.
  - b - Ensuring that the public body meets its proactive disclosure obligations.
  - c - Responding to requests for information and other information-related queries from the public.<sup>5</sup>
  - d - Preparing the annual report to the Committee, as stipulated in Article 10.
  - e - Cooperating with the Committee in the discharge of its obligations.

**Article (16)<sup>6</sup>**

- 1) The Information Management and Disclosure Committee shall be an independent authority reporting to the Prime Minister
- 2) The members of the Committee shall consist of five persons appointed by the Prime Minister from among persons of eminence in public life, provided that, before making appointments, the Prime Minister shall give the People's Assembly an opportunity to discuss them.

- 3) The Committee shall have all powers, direct or incidental, as are necessary to undertake its functions as provided for in this Law, including full legal personality, and the power to acquire, hold and dispose of property.
- 4) Members of the Committee shall be paid the same salary as a judge of the High Court.
- 5) The Committee shall submit a budget proposal on an annual basis for approval by the Prime Minister.

## **Chapter Seven: Promotional Measures**

### **Article (17)**

The Prime Minister shall, in addition to any other function under this Law:

- a - Adopt regulations on fees.
- b - Set rules relating to the classification of records.

### **Article (18)**

In addition to any other powers and responsibilities provided for in this Law, the Committee shall, within the resources available to it:

- a - Monitor and report to the People's Assembly on public bodies' compliance with their obligations under this Law.
- b - Make recommendations for reform both of a general nature and directed at specific public bodies.
- c - Co-operate in the delivery of, or undertake, training activities for public officials on the effective implementation of this Law.
- d - Undertake public awareness raising activities relating to this Law and the proactive disclosure of information pursuant to it.
- e - Prepare an annual report on the operation of this Law to be tabled before the People's Assembly and the Shura Council, based in part on the reports referred to in Article 10.
- f - Perform such other acts as may be required for the implementation of this Law.

## **Chapter Eight: Crimes and Protections**

### **Article (19)**

Anyone who willfully commits any of the following acts shall be imprisoned for a period not exceeding a month and/or asked to pay a fine of not less than two hundred pounds and not more than one thousand pounds:

- a - Obstructing the disclosure of information contrary to the provisions of this Law.
- b - Obstructing the performance by a public body of its obligations under this Law.
- c - Interfering with the work of the Committee.
- d - Damaging or destroying records without lawful authority.

#### **Article (20)**

No one shall be subjected to civil or criminal action, or any employment detriment, for anything done in good faith in the exercise, performance or purported performance of any power or duty in terms of this Law.

#### **Article (21)**

- 1) No one shall be subject to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or which would disclose a serious threat to health, safety or the environment, as long as they acted in good faith and in the reasonable belief that the information was substantially true.
- 2) For purposes of sub-article (1), wrongdoing means the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, abuse of power or serious misconduct, as well as a serious threat to public health, safety or the environment, whether linked to individual wrongdoing or not.

## **Notes**

1. Article 3 of the Resolution repeals Articles 10 and 15 of the CAPMAS Decree. Perhaps the system established by Articles 11-14 of this Decree, whereby all ministries must establish internal units reporting to CAMPAS should also be abolished (is it still even active in practice).
2. Sub-article 3(2)(f) refers to transfer to the archives. I am not aware of how this system works in Egypt. Specific rules to ensure compatibility between this law and the archiving system may be needed.
3. Sub-article 13(4) refers to the idea of making decisions of the Committee legally binding. I don't know how this is done in the Egyptian legal system (or whether another approach might be more appropriate).
4. Two versions of Article 15 are provided. I do not know either whether the Information and Documentation Centers established pursuant to Decree No. 627/1981 still exist or whether they would be appropriate focal points for implementation of the obligations set out in this Law.
5. The reference to dealing with the public in Sub-article 15(3)(c) (or 15(2)(c) in Version 2) is not intended to imply that the public has a general right to access information held by public bodies.
6. Article 16 creates the Information Management and Disclosure Committee. I am not really sure how to do something like this in Egyptian law so this probably needs to be revisited.